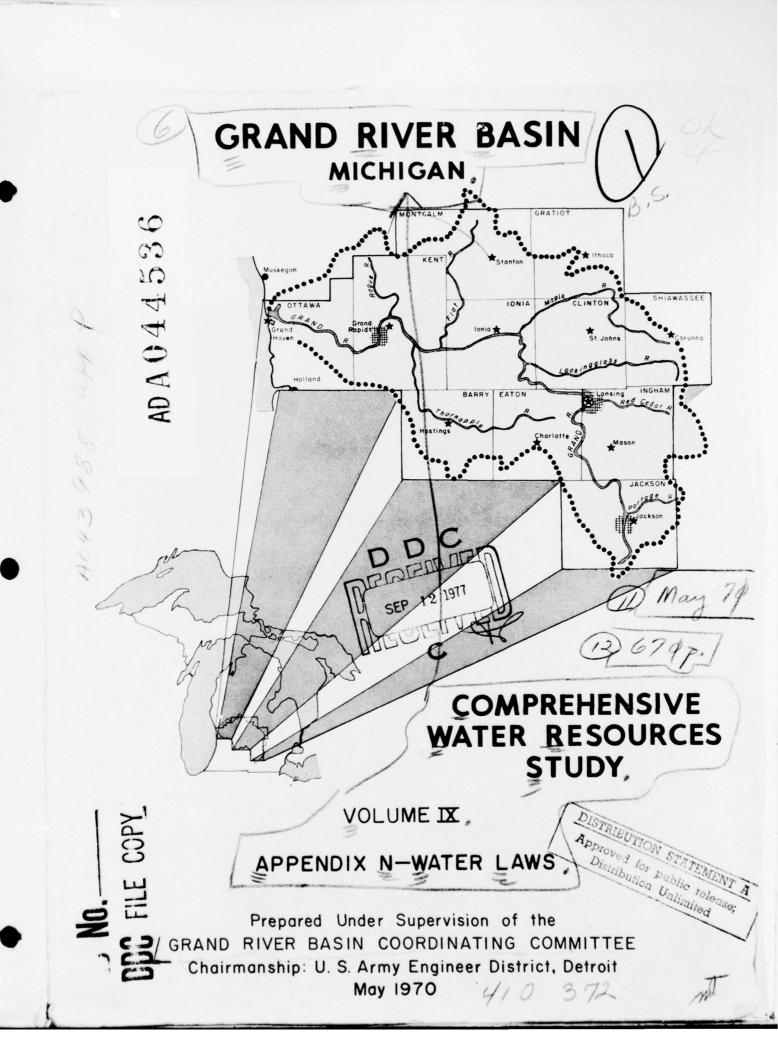
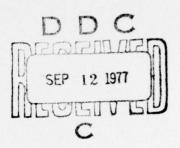
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APPENDIX N
WATER LAWS

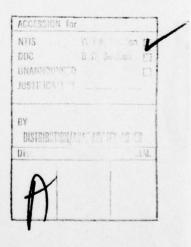


COMPREHENSIVE PLANNING STUDY

OF THE

GRAND RIVER BASIN, MICHIGAN .

Prepared by the U. S. Army Engineer District, Detroit



APPENDIX N

WATER LAWS

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I - INTRODUCTION

Water, as a natural resource belonging to the public, must be protected by laws and policies to assure its use for the general welfare of all the people. The need to regulate public waters to insure their use for the best public interest was seen early in the history of this country. The earliest regulation of water use was in the interest of navigation on the rivers and lakes. In the ensuing years, laws have been enacted pertaining to the use of water for numerous purposes. This appendix will discuss laws pertaining to the use of water and to related land development. Laws governing use of water resources are found at all levels of government. Relationships will be set forth between Federal, State and Local governmental units with respect to laws, policies and programs pertaining to water resources and related land development.

Executive policies, standards, and procedures have been established for uniform application in the formulation, evaluation, and review of comprehensive river basin plans and individual project plans for use and development of water and related land resources. The basic objective in the formulation of plans is to provide the best use, or combination of uses, of water and related land resources to meet all foreseeable short and long range needs. In pursuit of this basic conservation objective, full consideration shall be given to the development, preservation, and well-being of the people. National economic development, and development of each region within the country, is essential to the maintenance of the national strength and the achievement of satisfactory levels of living. Water and related land resources development and management are essential to economic development and growth. Preservation of resources and areas of natural interest require the proper stewardship in the long-term interest of the Nation's natural bounty. The well-being of all the people should be the overriding determinant in considering the best use of water and related land resources. The hardship and basic needs of particular groups within the general public will be of concern, but care should be taken to avoid resource use and development for the benefit of a few or the disadvantage of many. In planning policies and procedures for resource use and development all viewpoints national, regional, State and local - should be fully considered and taken into account. Regional, State and local objectives must be considered and evaluated within a framework of national public objectives and available projections of future conditions and needs. Similarly, available projections of future conditions and needs of regions, states, and localities should be considered in plan formulation.

Water laws of the State of Michigan are based on the riparian doctrine. The basis of the riparian doctrine is the English common law which was adopted in this country as it seemed applicable. The riparian doctrine applies to surface waters, in flowing streams or in ponds, whether navigable or non-navigable. Under the riparian doctrine, the owner of a tract of land abutting on a stream has a right to the reasonable use of the

water. This provides that owners of the land along a stream share equally in the use of the water, as long as each riparian owner is reasonable in his use. However, each land owner's right to make reasonable use of the water is limited by the equal right of all other land owners along the same water course. Further, there is some question as to what may constitute a reasonable use of the water. Therefore, the riparian doctrine is subject to modification in order to be useful as a basis for legislation. Section V, Jurisdictional Problems, of this Appendix gives detailed discussions of the water laws, including riparian rights, as pertains to the State of Michigan. Attachment 3 contains the State of Michigan laws relating to water.

II FEDERAL LAWS RELATING TO WATER RESOURCE DEVELOPMENT

GENERAL

The concept and substance of a Federal responsibility for comprehensive development of the Nation's water and related land resources is embodied in legislative enactments over the years under the commerce and welfare clauses of the Constitution, and the gradual growth of a body of policy by repeated authorization of specific types of projects. The fundamental objective of the Congress in authorizing Federal participation in resource development is to insure that the Nation's resources make an optimum contribution to the health and welfare of its people. But at the same time, the Congress seeks to maintain a reasonable balance between the powers and responsibilities assumed by the Federal Government and those to be left with the States, local governmental entities, and private enterprise. Many of the laws which Congress has enacted with a view to achieving these objectives permit the Federal agencies to exercise latitude in developing plans which must be specifically authorized by Act of Congress before they may be carried out. While it is highly desirable that such latitude be available to the planning agencies, it also presents them with a very difficult problem; that of recommending to the Congress, for each project or program planned, a division of responsibility between the Federal and non-Federal entities which the Congress will accept as representing a reasonable balance between what the Federal Government should undertake and what should be left to the States and their subdivisions. It is for this reason that Federal agencies are so often confronted with the question of whether they should recommend that the Federal Government itself carry out a potential project which does not involve, or which involves in only a secondary way, one or more of the purposes for which the Congress has assumed full, or a high degree of, responsibility. To arrive at a reasonable answer to this question it is necessary for the Federal agency concerned to give full and careful consideration to all available indicators of Congressional intent, as well as to the principles and policies specifically spelled out by the legislation authorizing the agency to propose projects and programs.

As indicated by the body of Federal water resources legislation, Congress has established generally that in participating in the conservation, development, and use of the Nation's water and related land resources in the interests of furthering commerce and the public welfare, the Federal Government:

- a. Should undertake only that which local levels of government, or private enterprise, cannot do as readily, or as well from the standpoint of the national interest;
- b. May bear a part of the costs of projects and programs that benefit the Nation as a whole, or are necessary to protect the interest of future generations, particularly in those fields in which profit-making organizations do not operate;
- c. Should provide for the mitigation of any damaging effects of Federal projects, or carry out measures to compensate for such effects;
- d. May, where special circumstances make such action necessary or desirable in the national interest, provide services which normally would be provided by private enterpise or non-Federal public entities; for example, when long-range financial returns are not sufficiently attractive in the short-range view of private enterprise, or when costs are included for purposes not readily marketable, or when problems of comprehensive and coordinated development cannot be readily resolved below the Federal level;
- e. May construct certain works for which local interests will be willing to pay, or may provide subsidies, as by permitting repayment at low Federal interest rates;
- f. May develop comprehensive plans embracing even those purposes for which a high degree of responsibility remains with non-Federal entities;
- g. Should not consider all purposes to warrant equal or maximum Federal participation.

Acts of Congress, and interpretations thereof by the Supreme Court, clearly indicate that the Federal Government may accept some degree of responsibility for all aspects of water conservation, development, and use. However, it is also clear that the degree of responsibility that may be accepted is not the same for all purposes; that it varies from a maximum degree for sound planning, to a lesser degree for construction, and to a still lesser degree for financing, operation and maintenance. More specifically, under existing legislation, the Federal Government may:

a. Act as the prime mover in, and accept a high degree of responsibility for carrying out, projects for navigation, irrigation, flood control, and shore protection;

b. In connection with projects to serve the above purposes, assume a lesser degree of responsibility for the generation of power, the plovision of vater supply, the control and improvement of vater quality, the conservation and enhancement of the fish and wildlife resource, and the provision of opportunities for outdoor recreation.

In operating under the general principles and criteria outlined in the foregoing it must be kept in mind that legislative policy is constantly changing. Originally Con ress limited the Federal Government to providing improvements for navigation. But gradually, and over a long period of years, it added irrigation, flood control, and shore protection to the fields in which the Federal Government would assume a high degree it responsibility. The general trend of legislation is toward a broadening of the responsibilities accepted by the Congress. It seems incumbent therei give full consideration to all potentials of river basins an: op comprehensive plans considered to best meet the needs of However when reporting officers conclude that the national corrances Federal assumption of responsibility going beyond that parable under existing legislation, they will secure the approval of displace authority, in advance of completing plan formulation or of making information thereon available to outside interests, for any departures therefrom that they may consider necessary.

Federal planning is carried out on a coordinating basis from the earliest steps of investigation through the review process. A federal agency initiating an investigation of survey, arranges for appropriate coordination of problems of nutual concern with other agencies at Federal, State and local levels. Before a report is submitted to the President and the Congress, each department or independent agency interested in the project and the concerned States is provided with copies of the proposed report, and given an opportunity to furnish a statement concerning the project proposal from the viewpoint of its interest and responsibility. Such statements are included in the reports submitted by a sponsoring agency. If such statements propose variations from the policies and standard specified herein, the reasons for each variation shall be stated.

Planning by Federal agencies is also carried out in close cooperation with appropriate regional, State, or local planning and development and conservation agencies, to the end that regional, State, and local objectives may be accomplished to the greatest extent consistent with national objectives. When a proposed resource use or development affects the interest and restonsibility of non-Federal public bodies, those bodies are furnished info mation necessary to permit them to evaluate the physical, economic, and social effects. Their views are sought, considered in preparation of reports, and included in the final reports submitted to the President and the Congress or other approving authority.

Federal assistance to states and local agencies is available in the form of grants which is discussed in a separate paragraph in this section.

CONSTITUTIONAL

The Constitution, laws, and treaties of the United States are the supreme law of the land. The judges in every State are bound thereby, anything in the constitution or laws of any State to the contrary not-withstanding. The powers of the Federal Government are limited to those expressly delegated or reasonably implied from the Constitution. All other powers of government except those prohibited to the States by the Constitution are reserved to the States or the people. Within its sphere of delegated authority, the Federal Government is paramount.

Commerce Power. Federal projects relating to water resource development must be within the scope of powers conferred by the Constitution. The "commerce clause" of the Constitution is most frequently cited as the authority for the Federal Government to engage in water resource development. In this clause, the express power is delegated to Congress "to regulate Commerce with foreign nations, and among the several States, and with the Indian tribes." Since 1824 the "commerce clause" has been construed to comprehend navigation within the limits of every State in the Union.

The power to regulate commerce comprehends control, for that purpose and to the extent necessary, of all the navigable waters of the United States which are accessible from a State other than those in which they lie. For this purpose navigable waters are public property of the Nation, subject to legislation of Congress. The authority of the Federal Government to prevent interference with and obstructions to navigation, including those created under prior State or Federal sanction, has been sustained repeatedly. On the other hand, numerous decisions have sustained the proprietary control of the States over navigable waters and their beds, subject always to the rights conferred upon the Federal Government by the Constitution.

Navigable waters of the United States have been defined as follows:

Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water. And they constitute navigable waters of the United States within the meaning of the acts of Congress in contradistinction from the navigable waters of the States, when they form in their ordinary condition by themselves, or by uniting with other waters, a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water.

The authority of the Federal Government to p otect and develop navigation is applicable to both non-navigable reaches of a navigable stream and its non-navigable tributaries if the navigable capacity of the waterway

or interstate commerce may be affected. The creation of any obstruction not affirmatively authorized by Congress to the navigable capacity of any waters in respect of which the United States has jurisdiction is prohibited by statute.

Proprietary Power. Certain Federal authority relating to land and water resources is derived from the "property clause" of the Constitution. Congress has proprietary power "to dispose of and make all needful Rules and Regulations respecting the Territory of other Property belonging to the United States." The proprietary power entrusts Congress with unlimited power over the use of public lands. The Supreme Court has held that it is for Congress alone to say how the trust shall be administered. This power is of significance to irrigation in the Western States and to the development of power at Federal projects.

The right of the Federal Government to produce and dispose of power at Federal projects has been affirmed many times. In an early decision the authority of the Federal Government to utilize water power incidental to a navigation dam was made by the Supreme Court:

"At what points in the dam and canal the water for power may be with-drawn, and the quantity which can be treated as surplus with due regard to navigation, must be determined by the authority which owns and controls the navigation. In such matters there can be no divided empire."

The proprietary power is the constitutional foundation of reclamation laws. A court held in 1910 that the Federal Government can exercise constitutionally the power of eminent domain to obtain private lands necessary for a project irrigating both public and private lands. The same court pointed out that the public welfare required that public lands as well as those held in private ownership should be reclaimed and made productive. In a case in which the Reclamation Act was not an issue, the Supreme Court made this observation:

"As to those lands within the limits of the states, at least of the Western States, the national government is the most considerable owner and has power to dispose of and make all needful rules and regulations respecting its property."

General-Welfare Power. The Constitution empowers Congress to levy taxes and to appropriate funds to provide for the general welfare of the Nation. The "general-welfare clause" is a delegation of power separate from and not restricted by those enumerated in the same section of the Constitution. Dictum in a 1950 case dealing with reclamation law indicates that Congress may have a substantive power to tax and appropriate funds for the general welfare which is limited only by the requirement that the power be exercised for the common benefit as distinguished from some mere local purpose. Referring to reclamation, the Court asserted:

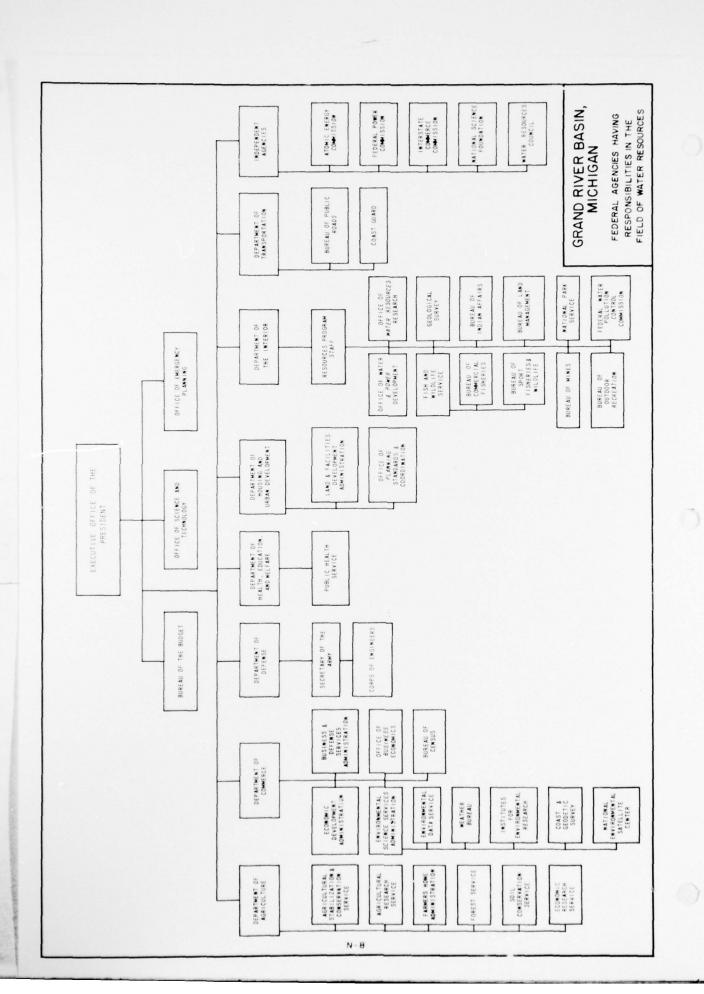
"Thus the power of Congress to promote the general welfare through large-scale projects for reclamation, irrigation, or other internal improvement, is now as clear and ample as its power to accomplish the same results indirectly through resort to strained interpretation of the power over navigation."

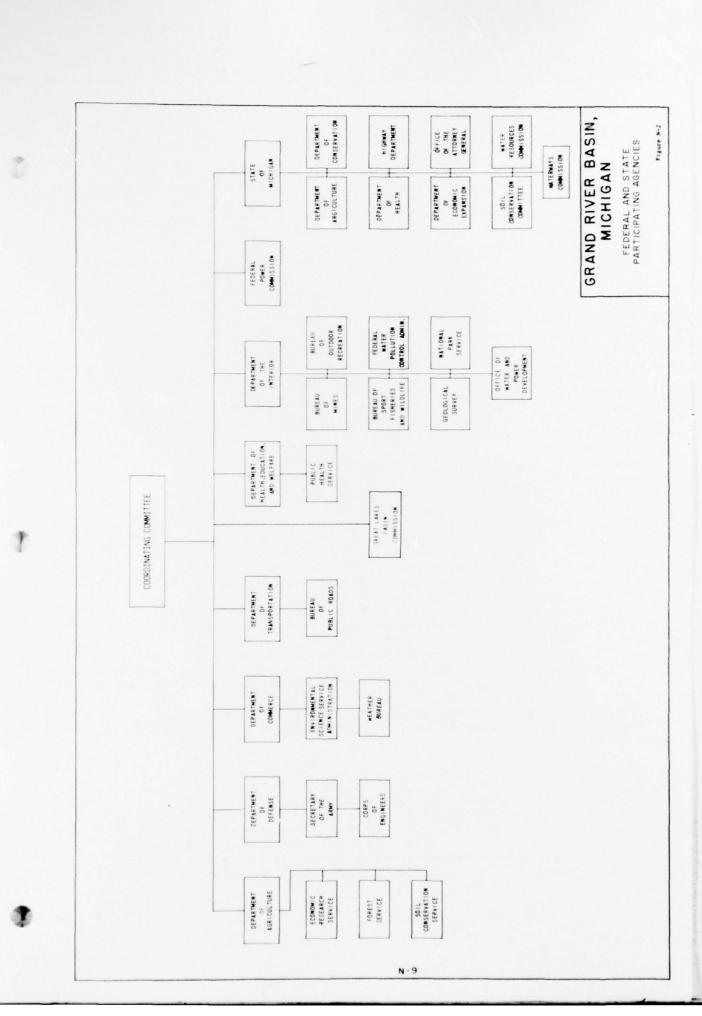
War Power. Congress is empowered by the Constitution to levy taxes and to appropriate funds to provide for national defense. The scope of this power in relation to water resource development is largely unexplored. In a 1936 case the Supreme Court approved the constitutionality of a dam on the Tennessee River which was authorized for construction by the Federal Government to generate power for products for munitions of war and useful in the manufacture of fertilizer and other products.

STATUTORY

Congress has enacted several major laws concerning water resource development and a multitude of minor acts which are in addition to those dealing with individual project situations. This section discusses the major legislative efforts of Congress pertaining to the subject and, in particular, the State and Federal relationships established by the legislation.

A summary of Federal agencies and committees having responsibilities pertaining to water resources, and their duties, is given here. This section deals with the permanent Federal agencies having responsibilities in the field of water resources. These responsibilities are divided among 22 agencies in seven Cabinet departments, and five independent agencies. In addition, three agencies operating within the Executive Office of the President exercise responsibilities in the water resources field, for a grand total of 30 agencies which have a specific responsibility on some aspect of Federal water resources activities. A number of other agencies, such as the General Accounting Office, which has the responsibility for auditing the operations of Federal water resources agencies, and therefore has a considerable group of experts having knowledge of Federal water resources activities, and the Department of Justice, responsible for legal work in connection with such activities, have not been included in the compilation, because their responsibilities are dependent on primary activity of other agencies. Likewise, agencies such as the military departments and the agencies of the General Services Administration, which engage in water resources activities such as water supply, pollution control, power generation solely for their own installations, are omitted. An organizational chart of Federal agencies concerned in the field of water resources development is given in Figure N-1, and Federal and State participating agencies in the Grand River Basin is given in Figure N-2.





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DEPARTMENT OF AGRICULTURE

The Department of Agriculture was created by act of Congress approved May 15, 1862 (12 Stat. 387; 5 U.S.C. 511,514,516). The major functions of the Department of Agriculture that involve water resources are aid to farmers in planning and installing erosion control and other soil and water conservation measures; water supply and sewerage facilities on forms and in rural communities; flood prevention and control works; and management of that part of the Nation's watersheds that are included in the national forests. Operating responsibilities in these fields are divided among the Agricultural Stabilization and Conservation Service, the Farmer's Home Administration, the Forest Service, and the Soil Conservation Service. In addition, the Department has agencies such as Agricultural Research Service, Economic Research Service, and the Cooperative State Research Service, that are engaged in, or provide funds for research in matters relating to water resources, and the Rural Electrification Administration that has an interest in the development of hydroelectric power to supply its cooperatives. The Extension Service of the Department of Agriculture has an organization in each state which operates through the land-grant schools, strictly as an information dispersing agency.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.

The Agricultural Stabilization and Conservation Service was established June 5, 1961, by the Secretary of Agriculture to replace previous agencies which had similar functions.

The principal water-related activities of the ASCS are financial and technical assistance to individual farmers for installing needed soil, water, woodland, and wildlife conserving practices, through the Agricultural Conservation Program; and disaster relief, through direct assistance to farmers and ranchers whose supplies have been destroyed or whose farmlands have been seriously damaged by widespread flood or drought.

The Agricultural Conservation Program was authorized by the Soil Conservation and Domestic Allotment Act of 1936. Through it, the Government shares costs to farmers and ranchers in establishing permanent protective cover, conservation and disposal of water, temporary protection of soil from wind and water erosion, and emergency conservation measures in designated disaster areas to control damage from floods, hurricanes, and other natural disasters.

AGRICULTURAL RESEARCH SERVICE.

The Agricultural Research Service conducts research to provide a scientific basis and support for the land and water resource programs administered by operations agencies of the Department of Agriculture. Included are investigations on the hydrologic performance of agricultural watersheds; erosion and sedimentation; moisture and water conservation; irrigation; drainage; hydraulics of water control structures and channels;

soil properties, processes, and management; soil-water-plant relations; plant nutrition; reclamation and management of saline and sodic soils; and practices and systems for preventing or controlling contamination of soil and water resources by agricultural chemicals and farm wastes.

Authority for the analysis and research is contained in the Organic Act, establishing the Department of Agriculture, of May 1862 (Ch. 12, Stat. 378; 5USC, 511, 514, 516) and the several Secretaries of Agriculture memoranda of assignments.

FARMERS HOME ADMINISTRATION.

Farmers Home Administration operates under three principal statutes: Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921), as amended by the Act of October 7, 1965 (79 Stat. 931); title V of the Housing Act of 1949 (42 U.S.C. 1471); and part A, title III of the Economic Opportunity Act of 1964 (42 U.S.C. 2851).

This agency provides credit, technical, and management assistance to rural groups for developing community water supply and sewerage systems, and to local organizations to help finance the non-federal costs of watershed projects. Authority for the latter loans is contained in the Watershed Protection and Flood Prevention Act of 1954 (16 U.S.C. 1006a).

The agency also administers a broad program of loans for capital improvements and operating cost in connection with housing purchase of farms, water and sewage facilities, land and water conservation measures and recreational facilities.

ECONOMIC RESEARCH SERVICE.

The Economic Research Service has the responsibility to provide the economic analysis of the effects of alternative resource uses on various aspects of the Nation's agricultural life including: food supplies and costs, farm income, the costs of government programs, etc. The principal effort concerning the economic analysis of water and related land resources use is carried on by the Natural Resource Economics Division of the Economic Research Service. Economic Analysis and Projections are carried on in River Basin Planning with research also conducted concerning water rights, water quality, watershed program analysis, outdoor recreation, land tenure and income distribution, and rural zoning and other land use controls.

The agency also administers a broad program of loans for capital improvements and operating cost in connection with housing purchase of farms, water and sewage facilities, land and water conservation measures and recreational facilities.

FOREST SERVICE.

The Forest Service has been a partner in the protection of watershed values in the Grand River Basin for nearly forty years. The National Forest System, basic forest research and the cooperative programs of the Forest Service in the fields of Watershed Management, Forest Management, Forestation, Forest Fire Control, and Forest Insect and Disease Control, on State and privately owned forest lands, provide direction and opportunity for protection, sound management and wise use to the 536,250 acres of forest land in the basin.

The National Forests are administered by the Forest Service under the general direction of the Secretary of Agriculture. The forests came into being in 1891 when Congress adopted an act that empowered the President to set aside forest reserves for the purpose of "securing favorable conditions of water flows and to furnish a continuous supply of timber for the use and necessities of the citizens of the United States."

The Organic Act of 1897 constitutes the law under which the National Forests are administered. It provided among other things for the creation of the forest reserves only for purposes of producing timber and protecting water supply.

For over a decade the only large areas of public forest land were in the West. On harch 1, 1911, a bill under the authorship of Senator John W. Weeks was enacted and approved. The Act enabled "any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable waters."

The Act both authorized and appropriated money for acquiring lands at the headwaters of the navigable streams and for Federal cooperation with the States in the control of forest fires on lands situated in the watersheds of such streams.

The Clarke-McNary Act of 1924 enlarged the policy of the Weeks Law to include the purchase of lands on the watersheds of navigable streams for timber production. Under the Clarke-McNary Act of 1924 the Huron Manistee National Forest, partly within the Grand River Basin, was established.

Aside from the acquisition features of the Weeks Law of 1911and the Clarke-McNary Act of 1924, this legislation also greatly strengthened fire protection on watersheds of navigable rivers and broadened the protection concept to include certain nonforest brush lands where watershed protection was vital to domestic water supplies.

In its duties of promoting conservation and best use of the Nation's forest lands, the Forest Service encourages the management of the forested portions of watersheds for the regulation of streamflow, reduction of flood damage and sediment production, and for the protection of sources of water for municipal and industrial supply, recreation, power, irrigation, and navigation. Cooperative programs with the State and private forest landowners, research, and the National Forest administration all consider the production of high wuality water one of the multiple uses of forest land.

Legislation continued and strengthened the cooperative forest management activities with the passage of the Norris-Doxey Cooperative Farms Forestry Act, 1937, and the Gooperative Forest Management Act of 1950 (PL-729). There were other Acts passed, such as the Watershed Protection and Flood Prevention Act, 1954 (PL-566), Agricultural Act of 1956, Multiple Use Sustained Yield Act, 1960, McIntire-Stennis Act of 1962, to total twenty-nine major pieces of legislation which have furthered the protection, sound management and wise use of thewatershed area in forest cover.

SOIL CONSERVATION SERVICE.

The Soil Conservation Service of the Department of Agriculture is a technical agency created to develop and carry out a national soil and water conservation program. It cooperates closely with Federal and State agencies that deal with loans, cost sharing, fish and wildlife, recreation, and other matters related to land and water use.

Responsibilities of the Soil Conservation Service include the provisions of (1) technical aid to individual landowners and operators in planning and installing conservation farming systems on farm lands, and (2) technical aid to groups of individuals and organizations with projects for the conservation and development of land and water resources in the upstream watersheds. This assistance is currently being provided primarily under three authorities: (1) The Soil Conservation Act of 1935, (2) the Flood Control Act of 1944, and (3) the Watershed Protection and Flood Prevention Act of 1954.

Soil Conservation Act of 1935. Under authority of Public Law 46 of the 74th Congress, commonly known as the Soil Conservation Act of 1935, the S.il Conservation Service gives on-site technical assistance to land-owners and operators in developing, applying, and maintaining sound plans for soil and water conservation on their land. This assistance is being provided through soil conservation districts organized under State laws. Such districts now include all of the land in the Grand River Basin.

Technical assistance is also provided to groups of farmers in communities and upstream vatersheds in developing and carrying out measures for land and water resource development that require community or group type of action for their installation, operation and maintenance. Improvements in these small watersheds may include measures such as small floodwater-detention structures, channel improvements to reduce flood water overflow and provide better drainage, water storage, and improved distribution systems for irrigation, community vater supply, etc.

Under the authority of the Soil Conservation Act of 1936, the Soil Conservation Service received an appropriation for the fiscal year 1954 to plan and carry out some 54 "pilot" watershed projects as a means of demonstrating the effectiveness of upstream watershed protection and flood prevention improvements. These watersheds, located in 33 states,

range in size from a few thousand acres to more than 250,000 acres. None of the projects are located in the Grand River Basin. The Federal Government is bearing slightly less than one-half of the costs of the projects while the remainder is being contributed by local people within the watersheds and by non-Federal agencies cooperating with them. All works of improvement have been installed on 50 of the 54 authorized pilot projects.

Flood Control Act of 1936. Following major floods in 1935 and 1936, Congress enacted the Flood Control Act of 1936. In this act the Federal Government recognized for the first time its responsibility for flood control. The new program called for a division of responsibility between the Army Corps of Engineers and the Department of Agriculture. The Army Corps of Engineers was assigned responsibility for main stem activity. The Department of Agriculture was made responsible for upland treatment of the watershed and flood control through small structures.

Flood Control Act of 1944. The Flood Control Act of December 22, 1944, among other provisions, authorized the U. S. Department of Agriculture to install works of improvement for runoff and waterflow retardation and soil erosion prevention in eleven watersheds covering a total of some 30,000,000 acres. The examinations and surveys for these watersheds were made under the authority of the Flood Control Act of 1936. The principal objectives of work on these watersheds was to speed up installation of land treatment measures by the landowners and operators, to obtain maximum control of water where it falls, and to provide additional protection as needed by measures to stabilized major gullies, debris dams to control sediment, floodwater retarding structures and channel improvements to reduce flood overflows, works to stabilize streambanks and similar measures.

Protection and Flood Prevention Act of 1954. The Watershed Protection and Flood Prevention Act, Public Law 566, was passed by the 63rd Congress in 1954. This Act provides for a partnership among the Federal Government, State governments, local communities, and individuals to deal with local water resource problems. The purpose of the Act and amendments is to carry out works of improvements pertaining to soil and water conservation and flood prevention, agricultural water management including irrigation and drainage, and provide for multiple uses such public recreation or fish and wildlife development; municipal or industrial water supply; and other non-agricultural water-management measures such as storage in reservoirs for pollution-abatement by streamflow regulation or saline-water-intrusion control.

Section 6 of the Act provides for cooperation with other Federal, State and local agencies to make investigations and surveys of the watersheds of rivers and other waterways as the basis for the development of coordinated programs. Section 7 of the Act repeals the authority of the Secretary of Agriculture to make preliminary examinations and surveys and to prosecute works of improvement for runoff and waterflow retardation and soil erosion prevention on the watersheds of rivers and other waterways, which authority was granted by the Flood Control Act of 1936.

The United States Department of Agriculture through the Soil Conservation Service administers the upstream watershed-protection and flood-prevention activities as an integral part of the total soil and water conservation job. The job involves working with local organizations that sponsor watershed projects and with individual landowners and operators in watershed project areas. Assistance to local organizations and individuals includes:

- I. Helping them prepare a watershed work plan.
- Designing and assisting in the construction of measures called for in the watershed work plan. This may include measures for flood prevention, irrigation, drainage, public recreation and fish and wildlife developments, and municipal or industrial water supply.
- 3. Helping landowners and operators plan, apply, and maintain farm and ranch conservation systems.
- 4. Administering the Federal part of the cost-sharing provisions of P.L. 566.

Certain legal and policy limitations have been placed on projects installed under the Act. The watershed project work plan cannot cover a watershed or subwatershed area of more than 250,000 acres, except that where the sponsoring local organization(s) so desires, a number of subwatershed areas, when they are component parts of a larger watershed, may be planned together. However, no single plan can be subwitted for a watershed or subwatershed area exceeding 250,000 acres.

No structure providing more than 12,500 acre-feet of floodwater detention capacity or more than 25,000 acre-feet of total capacity may be included in a plan.

Recreational developments are limited to one such development for the first 75,000 acres of watershed area, two for watersheds of 75,000-150,000 acres in size, and three for those over 150,000 acres in size.

Up to 1 January 1966, one P.L. 566 project has been authorized for construction in the Grand River Basin. In addition, 2 projects have been approved for planning. Construction has been completed at one project. These projects are discussed in more detail in Appendix M "Agriculture" of the report.

The Secretary of Agriculture delegated to the Forest Service responsibility for the forestry phase of the P.L. 566 watershed program. The Forest Service in turn cooperates closely with other involved agencies and particularly with the State Foresters who provide the direct technical assistance to woodland owners.

Forestry work under the watershed protection program consists of:

- 1. Protection of forest land from livestock grazing.
- 2. Protection of forest land from fire, insects and diseases.
- 3. Providing technical assistance for the improvement and management of existing woodlands.
- 4. Reforestation and/or rehabilitation of badly eroded areas which are now critical sources of sediment and rapid runoff of water.
- 5. Reforestation of areas where best land use dictates conversion from agriculture to forest land.

Table N-1 gives a summary and status of projects that have been approved for planning or construction in the Grand River Basin.

TABLE N-1
STATUS OF P.L. 566 WATERSHED PROJECTS
GRAND RIVER BASIN

Project Name	County	Approved for Planning	Approved for Construction	Construction Completed
Muskrat Creek	Clinton			X
Catlin-Waters	Clinton		X	
Fowlerville	Livingston	Х		
Upper Maple	Clinton, Gratiot, and Shiawassee	Х		
Lower Maple	Clinton, and Gratiot	Х		

DEPARTMENT OF COMMERCE

The Department of Commerce has only one agency having primary responsibilities in the field of water resources. This is the Environmental Science Services Administration. In addition, Commerce has agencies such as the Office of Business Economics which provides basic economic measures of the national economy; the Bureau of Census which is responsible for conducting periodic censuses; and the Business and Defense Services Administration which provide assistance to industry, including the water and sewerage industries. In addition, the Bureau of Standards does research in hydraulics.

ECONOMIC DEVELOPMENT ADMINISTRATION.

The Economic Development Administration (EDA) was established September 1, 1965. The Assistant Secretary for Economic Development is head of the EDA. The primary function is the long-range economic development and programming for areas and regions of substantial and persistent unemployment and underemployment and low family income through the creation of new employment opportunities by developing new and expanding existing facilities and resources in such areas and regions.

The organization of EDA comprises the Offices of: Assistant Secretary for Economic Development, Policy Coordination, Economic Development Planning, Economic Development Operations, Program Plans and Analysis, Economic Research, Chief Council, Public Affairs, Congressional Relations, Equal Opportunity and Administration, at the Washington, D.C. headquarters. There are 7 area offices and 52 field offices.

The Public Works and Economic Development Act of 1965 authorizes certain Federal aids for areas designated by the Assistant Secretary as redevelopment areas and centers. These include public works grants and loans, loans for industrial or commercial facilities, working capital loan guarantees, and technical, planning, and research assistance. Areas designated by the Assistant Secretary as Title I areas are eligible only for public works grants. Economic Development Districts designated by the Assistant Secretary are only eligible as such, for technical, planning, and research assistance which is also available to all other areas and centers having substantial need of such assistance. The Assistant Secretary may also aid redevelopment areas and other areas by furnishing technical information which would be useful in alleviating or preventing conditions of excessive unemployment within such areas. EDA exercises program control and provides policy direction in furnishing such aid in close collaboration with other Federal agencies.

The Administration's Area Offices and Field Offices provide direct assistance to State and local agencies concerned with, and engaged in, economic development activities. Grants and loans are made to local entities to plan and construct water supply and sewage systems, flood protective works, port installations, recreation facilities, and other water and related land resources activities, in addition to many other categories of projects.

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION.

The Environmental Science Services Administration (ESSA) was established on July 13, 1965, through the consolidation of the Coast and Geodetic Survey, the Weather Bureau, and the Central Radio Propagation Laboratory and the Office of Radio Frequency Management of the National Bureau of Standards.

The mission of ESSA is to describe, understand, and predict the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth, in order to further the safety and welfare of the public, enhance and improve the Nation's economy, and assist those Federal departments concerned with the national defense, the exploration of outer space, and the management of natural resources.

The Administration consists of five major components. These components are: the Environmental Data Service, the Weather Bureau, the Institutes for Environmental Research, the Coast and Geodetic Survey, and the National Environmental Satellite Center. The headquarters organization of the Administration includes, in addition to the Office of the Administrator, the following staff and special offices; Science and Engineering, Planning and Program Evaluation, Administration, International Affairs, Public Information, Management Information, User Affairs, Aviation Affairs, Internal Audits, the Federal Coordinator for Meteorological Services and Supporting Research, and Radio Frequency Management.

Environmental Data Service. This service operates data centers, such as the National Weather Records Center at Asheville, N.C., for the storage, retrieval, compilation, publication, and dissemination of environmental data for use by commerce, industry, the scientific and engineering community, and the general public. It conducts research to improve the quality and availability of environmental data, to insure its widest and best use; and it coordinates climatological and geophysical data matters with world scientific organizations.

weather Bureau. The Weather Bureau provides the national weather service. It observes and reports the weather of the United States and its possessions and develops and distributes forecasts of weather conditions and warnings of severe storms, floods, and other adverse weather conditions. The Bureau participates in international meteorological and hydrological activities, and provides forecasts for domestic and international aviation and for shipping on the high seas. Performance of these functions includes the operation of a national network of field offices and forecast centers. The Regional Office serving the Grand River Basin is located in East Lansing, Michigan.

Coast and Geodetic Survey. The Coast and Geodetic Survey provides: charts for marine and air navigation, a basic network of geodetic control, and other basic data for engineering, scientific, commercial, industrial, and defense needs. In performance of these functions it conducts surveys, investigations, analyses, and research in the following fields: hydrography, oceanography, geodesy, cartography, photogrammetry, teomagnetism, seismology, gravity, and astronomy. It directs certain field operations including field offices, mobile survey parties, observatories, and ocean survey vessels. Lansing, Michigan, is the field office serving the Grand River Basin.

Institutes for Environmental Research. The Institutes conduct an integrated research program relating to the oceans and inland waters, the lower and upper atmosphere, the space environment and the earth to increase understanding of man's environment in order to provide more useful services; and conduct propagation research and services in support of the Nation's telecommunication activities. Certain observatories and laboratories are operated in the field where necessary to observe environmental phenomena.

National Environmental Satellite Center. The Center manages and coordinates all operational satellite programs within the Environmental Science Services Administration and operates satellite systems for the acquisition of environmental data. It conducts research in new applications and methods of acquiring environmental data through satellites, and also conducts research in satellite instrumentation, satellite orbits and observational techniques, satellite telemetry, satellite data recording and processing techniques, and other aspects of satellite systems engineering. The Center operates certain field installations such as Command and Data Acquisition Stations at locations required by the satellite system.

OFFICE OF BUSINESS ECONOMICS

The function of the Office of Business Economics is to provide a systematic, quantitative description of the U. S. Economy within the framework of the national economic accounts; and to prepare analyses, based mainly on the information contained in the national accounts, of the short- and long-term outlook of the economy, of emerging economic problems, and of alternative policies that might be adopted to deal with them.

The national economic accounting framework established by OBE has become a mainstay of modern economic analysis concerned with such key issues as economic stability, growth, and the distribution of income. Its work in this field covers the overall national income and product accounts summarized by the gross national product; the U. S. balance of international payments; the input-output accounts; and personal income and other economic series by geographic areas. This work is supplemented

by the preparation of other business indicators, such as the plant and equipment and inventory anticipations surveys, which provide information on business investment programs. In OBE's economic analyses, these data are used in conjunction with the full array of statistical information produced by other agencies. The results of OBE's work are disseminated mainly through the monthly publication, Survey of Current Business, and its periodic supplements. In addition, for use within the Government, OCE prepares analyses bearing on the formulation of fiscal, monetary, and other economic policies. As an example of its participation in Comprehensive Basin Studies, OBE is working directly with the Water Resources Council in the economic aspects of water resources development.

BUREAU OF THE CENSUS

The Constitution provides that an enumeration of the people shall be taken every 10 years in the manner in which the Congress shall direct. The act of March 6, 1902 (32 Stat. 51), established the Census Office as a permanent bureau. The act of February 14, 1903, transferred the Census Office to the Department of Commerce and Labor. Laws pertaining to the Bureau of the Census were codified as Title 13, United States Code.

Census taking was established for the primary purpose of apportioning Representatives and direct taxes among the States on the basis of population. A population census has been taken decennially since 1780. Other subjects have regularly been included as needs arose and statistical projects were assigned to the Bureau.

In addition to the headquarters at Suitland, Md., the Bureau maintains a Census Operations Office at Jeffersonville, Ind., a Personal Census Service Branch at Pittsburg, Kans., and 12 field organization offices.

The Bureau is responsible for conducting periodic censuses, sample surveys, and other current data collections, and furnishing statistical services to other Government agencies.

The schedule of major censuses regularly taken is: population and housing, every 10 years for years ending in 0; agriculture, once every 5 years for years ending in 4 and 9, with drainage and irrigation for years ending in 9; governments, once every 5 years for years ending in 2 and 7; and manufacturers, mineral industries, business, and transportation generally once every 5 years (dates have varied), scheduled in future for years ending in 2 and 7.

Data collected at monthly, quarterly, or annual intervals provide up-to-date information on many subjects covered in the major censuses, on construction, and on U. S. foreign trade.

The number, location, and personal and family characteristics of the population, such as age, sex, race, marital status, place of birth, mother tongue of the foreign born, work status, occupation, education, mobility, and income, are included in the decennial census.

The sample survey of the population provides current estimates of personal and family characteristics, population mobility, school enrollment, educational attainment, number and characteristics of households, income, and consumer buying indicators. Monthly estimates of the total population and annual estimates by age, color, and sex are made; annual estimates for States are prepared; periodically, estimates of the population of standard metropolitan statistical areas are prepared; and projections of the population are furnished periodically.

Special censuses in local areas are taken at the request and expense of the local governments.

Statistics on the number and characteristics of housing units, such as number of rooms, persons per room, year built, tenure, value or rent, vacancy status, water supply, facilities, and equipment are provided by the decennial census of housing. Current housing statistics include data on rates, condition, and characteristics of housing vacancies, by geographic region.

The agriculture census provides data on the production and sale of farm products; farm and operator characteristics; farm labor, equipment, and facilities; cost of major farm inputs; use of agricultural chemicals; and farm values. The censuses of drainage and irrigation provide information on the number, characteristics, and extent of irrigation and drainage enterprises.

Statistics on cotton ginnings by State and county are published periodically during each season; detailed statistics on cotton production and distribution are published annually.

The census of manufactures provides data on employment, payrolls, materials consumption, shipments, value added by manufacture, inventories, capital expenditures, and gross book value of fixed assets and rent payments.

The Bureau conducts an annual survey of manufactures for intercensal years and a comprehensive monthly survey of manufacturers' shipments, inventories and orders. It also issues about 100 series of monthly, quarterly, and annual reports on the current output, shipments, and stocks of the more important manufactured products.

The census of mineral industries provides measures of activity in the mining of coal, iron, and other metals and minerals, and the extraction of oil and gas including employment, payrolls, and value added in mining.

As a part of the 1963 economic census program, a census of commercial fisheries was taken to provide measures of employment, payrolls, vessels, gear, and value of catch.

The census of business, covering retail and wholesale trade and selected services, provides data on number of establishments, sales, employment, and payroll, by kind of business; and on subjects such as employment size, sales or receipts size, and legal form of organization. It also provides data on retail trade in the central business districts of the important standard metropolitan statistical areas.

Weekly and monthly estimates of retail sales, monthly estimates of retail accounts receivable and merchant wholesaler sales and inventories, and year-end inventories held by retailers are parts of the current statistics program.

The first census of transportation was taken to provide 1963 data on major aspects of transportation including information about out-of-town trips by all modes of travel, manufacturers' shipments by all modes of transportation, truck inventory and use, and financial and operating data on for-hire bush and truck carriers not federally regulated.

Reports on U. S. foreign trade include information on imports and exports in commodity and country detail; trade in gold and silver, trade with Puerto Rico and with U.S. possessions, and trade by customs districts; shipments by vessel and by air; and vessel shipments by port of lading and unlading and flag of vessel.

The census of governments makes available data on numbers and characteristics of governmental units, public employment and payrolls, tax valuations, and governmental finances by type of government.

The program of current statistics on State and local governments provides annual data on finances and employment and on the financial operations of employee-retirement systems administered by State and local governments, and quarterly data on State-local tax revenue.

Data are compiled monthly on housing starts, value of new construction put in place, new dwelling units authorized by local building permits, national and other aggregates of new residential construction authorized in permit-issuing places, and sales and unsold inventory of new houses. Statistics are also provided on expenditures for residential additions, alterations, and repairs.

With the Social Security Administration's assistance, the Bureau issues periodically (annually beginning with 1964) <u>County Eusiness</u>
<u>Patterns.</u> For additional publications, see Appendix B.

The Bureau provides statistical consultation to foreign governments, arranges orientation programs for foreign visitors, and trains foreign technicians who are studying census and other statistical methods. Special studies are made in the field of foreign population and manpower and international statistical problems and methods.

In addition to collecting data for major censuses and periodic surveys, the field organization conducts special surveys at the request of Federal agencies and State and local governments.

The Bureau has a large data-processing facility for handling statistics from its own censuses and surveys and for assisting other Government agencies with such services at cost. These services include providing computer tapes and punchcards containing machine-readable data, making special tabulations, and assisting in design and alteration of tabulating equipment. Machine-readable data and special tabulations are also made available to the public at cost, under appropriate circumstances.

The Bureau has a staff qualified in the fields of sample survey design and methodology and procedural and program planning. This staff performs its functions in Bureau censuses and surveys and acts in an advisory capacity to other Government agencies.

Searches are made of the decennial census records of population and certificates furnished to individuals for use as evidence of age and place of birth.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

The Business and Defense Services Administration was established by the Secretary of Commerce on October 1, 1953.

The Administrator of BDSA is responsible to the Assistant Secretary for Domestic and International Business. Programs of BDSA are executed by 26 business and industry divisions, grouped by related industries into seven offices: Marketing and Services, Chemicals and Consumer Products, Industrial Equipment, Metals and Minerals, Scientific and Technical Equipment, Construction and Materials Industries, and Textiles.

BDSA is in daily contact with industry and business to keep informed of significant changes and problems confronting the business community.
BDSA is thereby enabled to provide active assistance in seven major program areas that directly involve the industry and commerce of the United States.

BDSA assesses the effect of industrial change on individual industries. It evaluates the impact of new materials and processes, and the business and economic consequences of changes in industrial practices. BDSA cooperates with industry to broaden awareness of available techniques to increase productivity, employment, and profits through modernization conferences.

BDSA provides advice and counsel to industries on international business opportunities, tariff questions, commodity problems and market prospects abroad. It contributes to the development of commercial policy by assessing the impact of imports on U.S. industry.

Within the Department's legislative program BDSA initiates and supports new legislation designed to expand business opportunities in the United States, and reviews and recommends changes in existing regulations to remove burdensome and outdated restrictions on industrial innovation and inventiveness.

BDSA helps to develop more meaningful and useful business statistics. It advises other agencies on the nature of business operations to assure fully informed decision making. BDSA prepares data necessary for fruitful and mutually beneficial tariff negotiations.

BDSA assists business to deal effectively with its policy problems involving the Federal Government. It advises Government agencies dealing with business problems about the potential impact of contemplated actions.

BDSA cooperates with business in preparation of special industry studies best performed by a Government agency. BDSA works with other Government agencies to collect and distribute business data which industry considers necessary.

BDSA administers the authority delegated to the Secretary of Commerce under the Defense Production Act of 1950, as amended, with respect to the use of priorities and directives that are necessary to support and expedite the accomplishment of current military, atomic, and space programs through the operation of the Defense Material System. It plans for industrial mobilization and production control in a national emergency, recruits and trains all members of the National Defense Executive Reserve, and provides advice and counsel to the Office of Emergency Planning on national stockpile acquisitions, disposals, and specifications.

BDSA is responsible for the administration of the program of trade adjustment assistance for firms authorized under Title III of the Trade Expansion Act of 1962.

DEPARTMENT OF DEFENSE

The Department of Defense, through the civil functions of the Corps of Engineers, has the oldest and largest of the Federal vater resources programs. This soes back to the year 1824, when, the engineers of the United States Army, being the only body of engineers within the Federal establishment, were given responsibility for work on rivers and harbors for navigation. Over the years, responsibilities in the fields of flood control, hydroelectric power, municipal and industrial water supply, recreation, and planning for all functions of water resources development were added by statute. The program has grown substantially in recent years to a level of over \$1-1/4 billion annually. The program is administratively directed by the Secretary of the Army who reports to the President on this program, through the Bureau of the Budget, without involving the Secretary of Defense.

Corps of Engineers.

The responsibilities of the Corps of Engineers in the field of water resources are outlined in the following paragraphs. The work is under the direction of the Chief of Engineers and is carried out through 11 division offices and 38 district offices scattered over the 50 states, most of which have parallel functions in the field of military construction. There is one division and one district involved in the Grand River Basin. The Detroit District is within the North Central Division.

GENERAL INVESTIGATIONS PROGRAM.

Surveys and Comprehensive River Basin Studies. The scope of and requirement for the Corps of Engineers water resources projects have developed through a long series of River and Harbor and Flood Control Acts. Projects for river basin development, flood control and navigation, require specific authorization by Congress after investigations and reports by the Corps. Other functions, such as pover, water supply, water quality control, recreation, and fish and wildlife enhancement may be included when warranted and local interests will agree to participate in accordance with law and policy. When project costs are less than certain limits specified in law, general authorities are available to the Secretary of the Army and the Chief of Engineers to develop and authorize small projects, as further outlines below, without returning to Congress for approval. Surveys are made entirely at Federal expense except for use of suitable locally developed data. Comprehensive river basin studies by the Corps stem from specific Congressional authorization, and the Water Resources Planning Act of 1965 (Public Law 89-80). Studies are coordinated with other Federal and local agencies and seek the objectives of the 1944 and subsequent Flood Control Acts and Public Law 89-80.

Flood Plain Information Studies. Section 206 of the Flood Control Act of 1960 (P.L. 86-645), as amended, authorized the Secretary of the Army through the Chief of Engineers, at the request of State and responsible local governmental agencies, to compile and disseminate information on floods and flood damages, and provide general criteria for local guidance in planning the use of flood plains and engineering advice on reducing the flood hazard. Such studies are made largely at Federal expense within the limits of appropriated funds. Local interests are encouraged to provide mapping, aerial photography, stream gages and similar relevant assistance and information.

GENERAL PROGRAM OF WATER RESOURCES PROJECTS.

General. Adoption of a Federal project generally requires findings of economic feasibility in survey reports made in response to specific Congressional authorization. Studies are thoroughly coordinated with local interests and other Federal agencies, and are reviewed by the Bureau of the Budget. Following Congressional consideration and authorization of recommended projects, usually in Omnibus River and Harbor

and Flood Control Acts, funds for Federal design, construction, operation and maintenance, consistent with the authorized conditions of local cooperation, are subsequently appropriated by Congress after consideration of the President's Budget.

Comprehensive River Basin Developments. The comprehensive studies in which the Corps of Engineers is engaged in cooperation with other Federal and local agencies will develop a series of long-range framework plans for the development of the river basins of the Nation. These plans will provide the context within which specific projects to meet the prospective needs of the country will be developed and proposed to the Congress for authorization as Federal projects. Pursuant to the objectives of the body of Federal water resources law and the Water Resources Planning Act, framework plans will inventory and specific studies will seek to determine the best programs and projects for optimum satisfaction of the Nation's needs for navigation improvements, flood control, major drainage, irrigation, hydroelectric power, water supply, water quality control, outdoor recreation, and fish and wildlife conservation and enhancement. Authorization reports specify the recommended Federal participation and local cooperation deemed appropriate.

Navigation. River and harbor improvements for navigation have been a Federal responsibility since 1824. Local interests are required to provide necessary lands, easements and rights-of-way for the project and for spoil disposal where needed, relocation or alteration of utilities, public terminals, and maintenance of berthing areas. Special contributions may be required for single-user projects and where land enhancement results from spoil disposal. Railroad and highway bridge alterations are financed cooperatively under Public Law 647, 76th Congress, as amended. Recreational harbors may be recommended where feasible, and a local cash contribution of 50 percent of the first costs of the general navigation facilities allocated to recreational boating is required in addition to other cited requirements of cooperation. Maintenance of navigation projects is at Federal expense.

Flood Control. The Federal interest in Nation-wide flood control was established by the Flood Control Act of 22 June 1936. That Act states that the Federal Government should participate in flood control "if the benefits to whomsoever they may accrue are in excess of the estimated costs, and the lives and social security of the people are otherwise adversely affected." The 1936 and subsequent Acts established the basis for the common policy on local cooperation followed by the Corps of Engineers. For proposed local protection projects, local interests are generally required to give assurances that they will provide lands, easements, and rights-of-way (including relocations and alterations of highways, highway bridges, and utilities); hold and save the United States free from damages due to the construction works; and operate and maintain the projects after construction. These three requirements are known as the "a-b-c" requirements of local cooperation. Flood control reservoirs, however, are generally exempt from such requirements except in special cases where the benefits are confined to a single locality and the project is in lieu of local protection works. Special local cooperation, usually as a cash contribution, may be recommended for flood control projects that produce "windfall" benefits to a few beneficiaries, or that involve land drainage benefits. The 1944 Flood Control Act requires the Secretary of the Army to prescribe regulations for operation of flood control and navigation storage at all reservoirs constructed with Federal funds, except those of TVA.

Major Drainage. The Flood Control Act of 1944 (P.L. 534, 78th Congress) defined flood control to include "major drainage." Federal major drainage improvements are defined to mean major outlet channels serving local land drainage systems. Administrative policy, based on cost-sharing for reclamation by irrigation in the West, provides for equal sharing of the first costs of the major outlets, including lands, between the Federal Government and local interests, with the latter to operate and maintain the project after construction, and to provide all upstream drainage improvements.

Hydroelectric Power. Power development may be recommended in reservoir projects if economically justified. There power is not found immediately feasible, penstocks in dams may be included for future power development upon the recommendation of the Federal Power Commission. In multiple-purpose projects, the costs allocated to power are the basis for establishing rates by the Federal marketing agencies.

water Supply. Municipal and industrial water supply is considered the primary responsibility of the States and local interests. However, storage may be recommended in multiple-purpose reservoirs, pursuant to the Water Supply Act of 1958 (P.L. 500, 85th Cong., Title III), as amended. Such storage may be reserved entirely for vater supply, or may be provided by joint use of seasonal flood control or other storage. Costs allocated to water supply may not exceed 30 percent of the total project construction costs, and are reimbursable by the water users, through a local public agency, over a 40 to 50 year period at Federal interest rates. A 10-year interest-free development period is permitted under the law. Interim use for irrigation in the western States may be considered under the terms of Reclamation Law.

water Quality Control. Storage for streamflow regulation to improve vater quality may also be recommended in multiple-purpose reservoirs pursuant to the Water Pollution Control Act of 1956 (P.L. 660, 84th Con ress), as amended. The law provides, however, that such storage may not be provided as a substitute for adequate local treatment or other methods of controlling waste at the source. Such storage may be reserved entirely for streamflow regulation, or may be provided by joint use of storage serving other purposes. Costs allocated to water quality control may be assumed by the Federal Government if the benefits are widespread. In water resource developments, Executive Order 11288

states that the Secretaries of Agriculture and the Army shall present for the consideration of the Secretary of the Interior any plans that they propose to recommend with respect to authorization of construction of any Federal water resource development project in the United States. The report of the Secretary of the Interior shall accompany any report proposing authorization or construction of such a water resource development project.

Recreation. Outdoor recreation, including enhancement of fish and wildlife for fishing and hunting, may be recommended as a proper purpose of Federal water resources projects pursuant to the Federal Water Project Recreation Act of 1965 (P.L. 89-72). If local interests agree to cooperate in recreational development, the separable costs of recreational facilities may be shared equally between Federal and non-Federal interest, and the joint costs allocable to recreation may be then assigned to the Federal Government. Cost-sharing in recreational development of authorized projects depends on the specific authorizing legislation, the status of completion of the basic project, and the applicability of general legislation. Recreational facilities at non-reservoir projects may be provided if local interests will share equally in the cost, and will assume operation and maintenance. Certain minimum basic facilities, for public health and safety, may be provided at Federal expense, but legislative and administrative policy seeks to encourage local interests to develop recreation areas and facilities at Federal projects at local costs. Under the Land and Water Conservation Act of 1965 (P.L. 88-578), fees collected from the public for admission to Federal water projects are returned in part to the States for recreational development thereby.

Fish and Wildlife Conservation. Pursuant to the Fish and Wildlife Coordination Act of 1958 (P.L. 624,85th Congress), the Corps of Engineers may recommend inclusion of certain project modifications and lands for fish and wildlife purposes in proposed projects. Justified measures to mitigate any project-caused damages to the fish and wildlife resource are included in the costs allocated to the purposes involved; measures for the development of the resource require specific legislative authorization.

Beach Erosion Control. The Act of July 28, 1956 (P.L. 826, 84th Congress) as amended by the River and Harbor Act of 23 October 1962 (P.L. 87-874), authorized the Federal Government to assume up to 50 percent of the cost of construction for protecting publicly owned or publicly used beaches; and up to 70 percent for protection of publicly owned shore parks or conservation areas subject to certain conditions in Section 103 of the 1962 Act. Non-Federal interests are required to assume all remaining costs, including lands, maintenance and repairs, and provide assurances that they will hold and save the United States free from damages, remedy pollution conditions that would endanger the health of bathers, and maintain public ownership and use of the protected shores on which Federal aid is based.

SPECIAL SMALL PROJECT PROGRAMS.

General. General authority is provided in several laws that permit the Secretary of the Army and the Chief of En ineers to authorize projects of limited scope within fiscal year appropriations specified in the laws. A project is adopted for construction under one of these authorities only after investigation clearly shows that its engineering feasibility and economic justification. An investigation is made upon receipt of a formal request from a prospective sponsoring agency fully empowered under State law to provide required local cooperation. This request as well as inquiries concerning a prospective project should be made direct to the District Engineer for the concerned area.

Small Flood Control Projects. Section 205 of the 1948 Flood Control Act as amended by Section 205 of the 1962 Flood Control Act (P.L. 87-874) provides authority to the Chief of Engineers to construct small flood control projects that have not already been specifically authorized by Congress. Each project selected must be complete in itself, economically justified, and limited to a Federal cost of not more than \$1 million. The local sponsoring agency must agree to provide without cost to the United States all lands, easements, and rights-of-way, including highway, highway bridge, and utility relocations and alterations; hold and save the United States free from damages; maintain and operate the project after completion; assume all project costs in excess of the Federal cost limit of \$1 million; and prevent future encroachments on improved channels.

Small Navigation Projects. Section 107 of the River and Harbor Act of 14 July 1960 (P.L. 86-645), as amended, provides authority for the Chief of Engineers to develop, construct, and maintain small navigation projects that have not already been specifically authorized by Congress. Each project selected must be economically justified, complete within itself, and limited to a Federal cost of not more than \$500,000. A Section 107 project can be authorized only if a State, municipality, or other public agency of the State empowered under State law with sufficient legal and financial authority to provide local cooperation and participation will agree to the same requirements of cooperation as for regularly authorized commercial and recreational navigation projects, and in addition assume all project costs in excess of the Federal cost limit of \$500,000.

Small Beach Erosion Control Projects. Section 103 of the River and Harbor Act of 1962 (P.L. 87-874), as amended, provides authority for the Chief of Engineers to develop and construct small shore and beach restoration and protection projects that have not already been specifically authorized by Congress. Each project under Section 103 must be complete, economically justified, and limited to a Federal cost of not more than \$500,000, including any Federal share of periodic nourishment cost. Local cooperation is otherwise based on the same requirements as for regularly authorized larger beach erosion control projects.

Snagging and Clearing Projects for Navigation. Section 3 of the Rivers and Harbors Act of 1945 authorizes clearing and straightening of stream channels, and the removal of accumulated snags and other debris, in the interest of navigation. Each project must be economically justified. The maximum allotment is not to exceed \$300,000 from any appropriations made for any one fiscal year for improvement of rivers and harbors, for removing accumulated snags and other debris, and for protecting, clearing and straightening channels in navigable harbors and streams. Local interests must agree to provide without cost to the United States, all lands, easements, and rights-of-way, and all required alterations and relocations in utility facilities; hold and save the United States free from damages; maintain the project under completion; assume all project costs in excess of the allotment limitation; and provide a cash contribution toward construction costs where "windfall" land enhancement or other special benefits would accrue. The cash contribution, where required, is computed in accordance with existing policies for regularly authorized projects.

Snagging and Clearing Projects for Flood Control. Section 208 of the 1954 Flood Control Act (F.L. 780, 83rd Congress), authorizes clearing and straightening of stream channels and the removal of accumulated snags and other debris in the interest of flood control. Each project selected must be economically justified. The maximum Federal expenditure per project is limited to \$100,000. A Section 208 project is designed to be complete in itself and not require additional work for effective flood control. The local sponsoring agency must agree to provide without cost to the United States all lands, easements, rights-ofway, and all required alterations and relocations in utility facilities; hold and save the United States, free from damages; maintain the project under completion; assume all project costs in excess of \$100,000; and provide a cash contribution toward construction costs where "windfall" land enhancement or other special benefits would accrue. The cash contribution, where required, is computed in accordance with existing policies for regularly authorized projects.

Protection of Essential Highways, Highway Bridge Approaches and Public Works. Section 14 of the 1946 Flood Control Act provides specific authority to the Chief of Engineers to construct bank protection works to protect endangered highways, highway bridge approaches, and other essential or important public works, such as municipal water supply systems and sewerage disposal plants, which are endangered by flood-caused bank erosion. A Section 14 project is designed to be complete in itself and to require no additional work for effective and successful operation. Each project must be economically justified. The maximum Federal expenditure per project is limited to \$50,000. The local sponsoring agency must agree to provide without cost to the United States all lands, easements, rights-of-way, and all required utility alterations and relocations; hold and save the United States free from damages; maintain the project after completion; assume all project costs in excess of the Federal cost limit of \$50,000; and provide a cash contribution in proportion to any special benefits.

DISASTER RELIEF AND EMERGENCY PROGRAMS.

Disaster Relief by Corps of Engineers. In connection with natural 'major disasters," determined to be such by the President pursuant to the National Disaster Act of 1950 (P.L. 875, 81st Congress), the Civil works organization of the Corps of Engineers may be called upon to participate in the program of Federal disaster assistance. Request for Corps of Engineers participation may be made to the Chief of Engineers by the Director of the Office of Emergency Planning (OEP), acting in behalf of the President. The authority of the OEP Director has been delegated to the OEP Regional Directors.

Following Presidential declaration of a "major disaster" at the request of a State Governor, requests for assistance are made by local authorities through State channels to the appropriate OEP Regional Director. With the concurrence of the responsible Army Commander, Division Engineers of the Corps may be directly requested by OEP Regional Directors to provide requested disaster assistance beyond statutory authorities of the Corps. During the disaster fighting phase, action by the Corps under F.L. 375 authority is normally through the Army military command. Requested disaster operations are reimbursable from disaster relief funds appropriated pursuant to P.L. 875 and made available by the President.

Circumstances may justify immediate action to save human life, to prevent imminent human suffering, or to mitigate great destruction or damage to the property of the United States. Such action may be taken or assistance given by the Corps of Engineers pending declaration by the President of a "major disaster," or in connection with other disasters not designated by the President as "major disasters." Authority therefor stems from the statutory authorities of the Corps of Engineers for flood fighting and rescue operations, or the established policies and practices of the Corps and the Department of the Army.

Emergency Operations. Flood and storm emergency operations, including advance planning, patrolling of levees, flood fighting, rescue operations, emergency repairs and protection of Federal projects, and supplementation of local efforts upon request in emergencies, are authorized by the Flood Control Act of 18 August 1941, as amended by Public Law 99, 84th Congress and other Acts. While emergency repairs of non-Federal flood control works are permissible, the law does not extend to reimbursement of local expenditures for flood fighting or post-flood repairs and improvements. Primary responsibility for disaster fighting rests with local interests. The Corps of Engineers seeks to encourage proper local maintenance of protective works and advance preparation for emergencies, including stockpiling of material and training of personnel. Local cooperation, substantially as required for regular flood control projects, is required for emergency rehabilitation work under Public Law 99, and for repairs which constitute betterments or accomplishment of deficient local maintenance.

CIVIL REGULATORY FUNCTIONS.

Bridge Authorization. Section 9 of the River and Harbor Act approved 3 March 1899 (33 U.S.C. 401) requires the consent of Congress or State legislature, and the approval of plans for bridges by the Chief of Engineers and the Secretary of the Army. Section 502 of the general Bridge Act approved 2 August 1946 (33 U.S.C. 525) authorizes the construction of bridges across any of the navigable waters of the United States, except international bridges (which must be authorized by special acts of Congress). The authority for the approval of plans for bridges was transferred to the Coast Guard in the Department of Transportation by Section 6(g) of P.L. 89-670 (80 Stat. 931) approved October 15, 1966.

Use of Navigable Waters. Section 7 of the River and Harbor Act approved 8 August 1917 (40 Stat. 266; 33 U.S.C.) authorizes the Secretary of the Army to prescribe such regulations for the use, administration, and naviation of the navigable waters of the United States as public necessity may require for the protection of life and property, or for operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department.

Permits. Section 10 of the River and Harbor Act approved 3 March 1899 (30 Stat. 1151; 33 U.S.C. 403) prohibits the placing of any structures in or over any navigable waters of the United States outside established Federal harbor lines, or excavating from or depositing material in such waters, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. The instrument of authorization is designated as a permit.

Harbor Lines. Section 11 of the River and Harbor Act approved 3 March 1899 (33 U.S.C. 404) authorizes the Secretary of the Army to cause harbor lines to be established where it is made manifest to him that establishment is essential for the preservation and protection of a harbor.

Removal of Wrecks and Other Obstructions. The laws relating to removal of wrecks are contained in Section 8 of the River and Harbor Act approved 19 September 1390, Sections 15, 19, and 20 of the River and Harbor Act approved 3 March 1899, and the Act approved 17 September 1965.

Alteration of Obstructive Bridges. The Bridge Alteration Act approved 21 June 1940, as amended, (Truman-Hobbs Act), provides for the alteration of lawful railroad bridges and/or highway bridges, when found unreasonably obstructive to navigation. The Act provides for an apportionment of the total cost of the alteration between the United States and the bridge owner. This function has been reassigned to the Department of Transportation.

PROJECTS.

Corps of Engineers navigation projects in the Grand River Basin are listed in Appendix I, Navigation. Flood control projects of the Corps of Engineers are listed in Appendix H, Flood Control.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

The Department of Health, Education and Welfare was created by Reorganization Plan No. 1 of 1953. Under provisions of the Act approved April 1, 1953 (67 Stat. 18; 5 U.S.C. 623), the Plan became effective on April 11, 1953. Water resources activities of the Department are handled by the Public Health Service.

PUBLIC HEALTH SERVICE.

The Public Health Service is concerned with the overall public health aspects of the river basin planning within the framework of authority contained in the PHS Act (P.L. 78-410). In addition, other responsibilities pertaining to water resource planning and control have been acquired under other authority.

These responsibilities are administrated within the Grand River Basin by the Region V Office in Chicago.

Basic Authority. The basic authority for the activities of the Public Health Service is the Public Health Service Act (Public Law 410). Section 301 (42 U.S.C. 241) of Public Law 410 charges the Public Health Service with responsibility to study methods relating to causes, control, prevention, and treatment of diseases and impairments of man including water purification, sewage treatment, and water pollution. The activities identified in Items 1 and 2 have always been the responsibility of the Public Health Service under Public Law 410. Since the transfer of the water pollution control functions of the Public Health Service to the Department of the Interior, the health-related aspects of water pollution control retained by the Public Health Service have been defined in the Water Quality Act (P.L. 86-234, 79 Stat. 905); Reorganization Plan No. 2 of 1966; and Interdepartmental Agreement "Health Aspects of Water Pollution Control" between the Departments of the Interior and Health, Education and Welfare, approved by President Johnson on September 1, 1966.

Considerations in the area of water resources include:

1. Health-Related Aspects of Water Pollution. These activities would include the recreational water use and drinking water use. (Water Quality Act of 1965, 79 Stat. 905, Section 2(k); Reorganization Plan No. 2 of 1966). Since the transfer of the water pollution control functions of the Public Health Service to the Department of the Interior, the health-related aspects of water pollution control retained by the Public Health Service have been defined in the Water Quality Act (P.L. 86-234, 79 Stat. 905); Reorganization Plan No. 2 of 1966; and Interdepartmental Agreement "Health Aspects of Water Pollution Control" between the Departments of the Interior and Health, Education and Welfare, approved by President Johnson on September 1, 1966.

- 2. Storage Considerations for Federal Reservoirs. Responsibility includes public health questions involved in determinations by Federal agencies of the need for and the value of inclusion of storage for regulation of streamflow for the purpose of water quality control.
- 3. Vector Control. The Public Health Service is responsible for investigating methods of vector control and the role of vectors in the spread of disease. In this capacity, the Service advises States and Federal agencies regarding possible vector problems that may arise when specific water impoundments are constructed, and advises on methods to prevent vector problems. Authority for these activities is derived from the Public Health Service Act and the derived Quarantine Regulations (Parts 71 and 72, Title 42, Code of Federal Regulations).
- 4. Prevention of Interstate Transmission of Disease. This archority is granted under Section 361 (42 U.S.C. 264) of the Public Health Service Act. Under this authority, the Public Health Service publishes regulations regarding interstate quarantine (Part 72, Title 42, Code of Federal Regulations).
- Subpart D Potable Water: Source and Use. This section authorizes the Public Health Service to certify the source of water supply and the watering point facilities where carriers engaged in interstate commerce may obtain water. It also authorizes the Public Health Service to certify methods of water treatment aboard conveyances that do not use shore watering points. This authority includes the sanitation of water boats and the protection of pier water systems and water loading facilities.
- Subpart E Vessels: Sanitation Facilities and Conditions. This section establishes criteria for sanitary conditions aboard vessels engaged in interstate traffic. As part of the vessel certification, Public Health Service personnel annually inspect vessels engaged in interstate commerce.
- Subpart J 'Drinking Water Standards'. This section delegates responsibility to the Public Health Service to approve water supplies furnishing water to interstate carriers. The approval is dependent on:
 - a. Consideration of purity or contamination of the raw water supply and provision of adequate quantity.
 - b. Comparison to standards for bacteriological, physical, chemical, and radiological constituents as specified by the Public Health Service (Drinking Water Standards).
 - c. Provision and satisfactory operation of water treatment plants, including adequacy of facilities to meet maximum demands.
 - d. Provision for adequate quality control procedures to assure production and delivery of a safe product.
 - e. Provision for an adequate and safe water distribution system.

5. Commitment to Later Supply Industry. As a corollary to its legal responsibility for classification of interstate carrier water supplies under the Interstate Quarantine Regulations, the Public Health Service also exercises a traditional role in the improvement of public water supplies to protect and promote the health of man. The Public Health Service has been instrumental in promoting standards and practices that have been adopted by the States and water supply industry to the benefit of the public. Authority for these activities is derived from the Public Health Service Act (P.L. 410, Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243).

Additional Interests. Other responsibilities of the Public Health Service, not derived from the Public Health Service Act, that are related to water resources include:

- 1. Emergency Water Supply Preparedness. The Public Health Service has been designated responsibility for preparing plans to assure provision of usable public water supplies for essential community use in an emergency. The activities include inventorying existing supplies, developing new sources, research, setting standards, and planning distribution. The authority for these activities is derived from Executive Order 11001, "Assigning Emergency Preparedness Functions to the Secretary of Health, Education and Welfare" (Sections 2(c) and 3 (c)).
- 2. Public Law 89-272, Solid Waste Disposal Act. This act points out that inefficient and inadequate disposal of solid wastes may cause serious hazards to the public health, including contamination of water and related land resources. It provides for the conduct and stimulation of research, investigations, experiments, training, demonstrations, surveys, and studies relating to solid waste disposal programs. It also provides grants for State and interstate planning relating to solid waste disposal programs.
- 3. Public Law 89-749, Comprehensive Health Planning and Public Health Services Amendments of 1966. This Act provides grants for comprehensive State Health Planning, for area-wide health planning, and for training, studies, and demonstrations; it also provides grants for comprehensive public health services. Support for State water supply planning and program activities are considered to be covered under this act as part of comprehensive health planning and services.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department of Housing and Urban Development was created by the act approved August 10, 1965 (79 Stat. 451). The Department is involved in problems relating to the Nation's cities and urban areas and thus is involved in urban vater resources problems in the fields of water supply, severage, and storm drainage. These functions were carried on primarily by the Community Facilities Administration, which was created as a part of the Housing and Home Finance Agency by authority of the Administrator's

Organizational Order No. 1, dated becember 23, 1954. The functions have been divided among two new agencies, the Land and Facilities Development Administration, and the Office of Planning Standards and Coordination. The functions of the Department are administered through regional offices throughout the country. Grand River Basin functions are handled by the Region IV Offices in Chicago, Illinois. The major points of the programs are discussed in the following paragraphs.

URBAN PLANNING ASSISTANCE PROGRAM.

The Urban Planning Assistance Program is administered by the Department of Housing and Urban Development. It is popularly called the "701 Program" because it was authorized by Section 701 of the Housing Act of 1954, as amended. That section makes available Federal grants to supplement State and local funds for comprehensive urban planning activities. These include the following, to the extent they are directly related to urban needs:

- Preparation of a comprehensive development plan for the pattern and intensity of land use and the provision of public facilities, including transportation. Long-range fiscal plans for such developments are included.
- ?. Programming and scheduling of capital improvements. Also definitive financing plans for the improvements to be constructed in the earlier years of the program.
- Coordination of all related plans of the departments or subdivisions of the government concerned.
- 4. Intergovernmental coordination of all related planning activities among the State and local governmental agencies concerned.
- 5. Preparation of regulatory and administrative measures in support of the foregoing activities.

Within this framework, eligible applicants are encouraged to devise a work program to meet the unique needs of each community. Applicants are also encouraged to develop new and improved techniques to deal with the problems they face.

Program Coordination. Urban areas, in many instances, have expanded across political boundaries. Within such areas, to the extent necessary, urban planning assistance projects for each political unit under the 701 Program must be coordinated with planning for all other units. Metropolitan planning in particular must be related to the governmental bodies that are responsible for carrying out planning proposals.

In some metropolitan regions which cover more than one political unit organizations of public officials have been formed. These organizations are eligible for Federal grants under a 1965 amendment to Section 701. The new provisions encourage creation and continuation of such organizations. They can play an important role in bringing together the many local governments and special purpose districts of an urban area, both through study and development of policies, and through political action. To further the area-wide emphasis of these organizations, the planning grants, to the maximum extent feasible, must be for activities relating to the total urban area.

To be eligible, organizations should consist mainly of elected representatives of cities and counties, rather than officials from special agencies and authorities. At least 90 percent of the area's population should be represented.

A number of Federal aid programs now require a program of comprehensive planning before a community or metropolitan area can obtain certain grants. Some examples are grants for transportation, mass transit, open space land, water and sewer facilities, land development, mortgage insurance, neighborhood facilities, and urban renewal. A comprehensive community plan is a key element of the Workable Program for Community Improvement. A Workable Program is a requirement for participation in a number of Federal aid programs. The 701 Program provides assistance to the community to meet these requirements for comprehensive planning.

Grant Amounts.

The Urban Planning Assistance Program generally provides grants of not more than two-thirds of the total cost of an urban planning project. In some cases, grants may go up to three-fourths of project cost. The higher percentage applies to localities in redevelopment areas designated under the Area Redevelopment Act or successor legislation, or in areas in which there has occurred a substantial reduction in employment as a result of a decline in government employment or purchases. Local or State sources must provide the balance in all cases.

What Areas May Benefit. Nearly all types of urban areas may benefit from the Urban Planning Assistance Program. These include cities and other municipalities with less than 50,000 population; counties; Indian reservations; official State, metropolitan and regional planning agencies; and metropolitan organizations of public officials. Also eligible are cities and other municipalities over 50,000 in areas which are federally impacted, or which have suffered a major disaster or a substantial reduction in employment as a result of a decline in Federal purchases, or which are in redevelopment areas so designated by the Department of Commerce.

GRANTS FOR BASIC SEWER AND WATER FACILITIES.

The Department of Housing and Urban Development which was created by the Housing and Urban Development Act of 1965, is involved in urban planning, including water resources programs in the fields of water supply, sewerage, and storm drainage. The grant program provided in Section 702 of the Department of Housing and Urban Development Act of 1965 is designed to assist communities to finance water and sewer lines that are, or can be, made part of an efficient, area-wide system. Water and sever projects financed with this Federal aid must be planned to fit in with a local program for comprehensive development of the community. water systems for which basic grants may be obtained include works to store, supply, treat, purify, or transmit enough water of good quality needed for housing, business, and industrial use. Sewer facilities include sanitary sewer systems that collect, transmit and discharge liquid wastes; and storm sewer systems that collect, transmit and discharge water caused by rainfall and ground water runoif. Vater or sewer lines connecting to houses or other buildings, or the local collection or distribution laterals are not eligible for grants. Direct grants may cover up to 50 percent of the cost of building the facility and for the land, easements and rights-of-way required for the system. Before a rant is approved, however, the applicant must show it will be able to provide the other funds required to finance the project.

ADVANCE FOR PUBLIC WORKS PLANNING.

The Secretary of Housing and Urban Development is authorized, by Section 702, Housing Act of 1954, as amended, to make interest-free, repayable advances of funds to States, municipalities and other local public agencies to aid in financing the cost of plan preparation for specific public works projects. The making of an advance does not in any way commit the Federal Government to appropriate funds to assist in financing the construction of any public work planned. Advances will be repaid without interest by the applicant when construction is started. If a public agency starts construction of only a portion of a planned public work it will repay such proportionate amount of the advance as the Secretary of Housing and Urban Development may determine to be equitable. If an advance is not repaid promptly upon the start of construction, interest at the rate of four percent per annum will be charged. Advances will generally be made for planning public works expected to be under construction within five years. However, advances may be approved for an individual region or metropolitan or other areawide project when project complexities or difficulties of planning are such that it may be expected to take more than five years before construction lay start.

PUBLIC FACILITY LOANS.

Public facility loans are also made under Section 1107 of the housing and Urban Development Act of 1965. This program provides long-term loans for the construction of needed public facilities such as sever or water facilities. A variety of public works may be financed

under this program. When aid is available from other Federal agencies, these loans apply only to those parts of the project not covered by other Federal programs. The term of the loan will be governed by the applicant's ability to pay and by the estimated useful life of the proposed facility, and may be up to 40 years. Local units of government or State instrumentalities may apply for a loan under this program. Private non-profit corporations for sewer and water facilities needed to serve a small municipality if there is no existing public body able to construct and operate the facilities may also apply. The population of the applicant communit must be under 50,000, except for communities near a research or development installation of the National Aeronautics and Space Agency, and communities located in redevelopment areas so designated in 1965.

DEPARTMENT OF THE INTERIOR

The Department of the Interior, created in 1849, has the widest range of responsibilities in the field of water resources, going from major construction programs for the reclamation of arid lands and multiplepurpose river basin development in the West, to a massive program of grants for water pollution abatement all over the Nation, and research into the frontiers of human knowledge in the field of water. The Department's responsibilities are carried on through the activities of numerous agencies, some of which are listed below. Supervision over the far-flung activities of these agencies is divided among five assistant secretaries, embracing the fields of water and Power Development, Fish and Wildlife and Parks, Public Land Management, Mineral Resources, and most recently, Water Quality. Staff assistance and advice in the field of vater is provided by offices of the Department, such as the Resources Program Staff and the Office of the Science Adviser. The Departmental offices are not considered water resources agencies for the purposes of this report. The agencies which are involved in the Grand River Basin are discussed herein.

OFFICE OF WATER AND POWER DEVELOPMENT.

Under Secretarial Order No. 2509, dated 13 January 1949, Sec. 1, creates the Office of Under Secretary and Assistant Secretaries with respect to any matters which may come before him (5 U.S.C. 1946 ed., Secs. 22, 481a, 482, 483).

Under date of December 1, 1950, Order No. 2601, Sec. 1 Responsibilities. The Assistant Secretary for Water and Power Development shall, within the limits of the authority delegated to him by Order No. 2509, as amended, discharge the duties and perform the functions of the Secretary of the Interior in the field of water and power development and exercise Secretarial direction and supervision over the Bureau of Reclamation, the Bonneville Power Administration, the Southeastern Power Administration, and the Southwestern Power Administration.

- Sec. 2. Office of the Assistant Secretary for Water and Power Development. (a) Establishment. There is established an Office of the Assistant Secretary for Water and Power Development. This Office, in addition to the immediate Office of the Assistant Secretary, shall consist of the Division of Water and Power headed by a Director reporting to the Assistant Secretary.
- (b) <u>Division of Water and Power</u>. The Division of Water and Power shall provide technical staff assistance for the Assistant Secretary for Water and Power Development, advise on the development, coordination, and management of programs for the water and power area, review and make recommendations on water and power program development, and assist the Assistant Secretary in supervising and coordinating the execution of water and power programs of the bureaus and other agencies. The Division shall perform the following functions:
 - (1) Water and Power Operations. Review and prepare recommendations and existing and proposed policies for water and power development; review and analyze water and power rates and contracts submitted for Secretarial approval and provide staff advice on their effect upon Departmental policy; furnish technical guidance and assistance to the water and power bureaus and other Departmental agencies on water and power problems including compliance with program standards and procedures; provide staff guidance and assistance for the operations of the water and power bureaus and recommend necessary operational adjustments to achieve approved objectives; and provide assistance for the formulation of annual and long-range programs for water and power operations of the Department.

Under the delegated authority to the Assistant Secretary, Office of Water and Power Development, the Reclamation Act of 1902 (32 Stat.388; 43 U.S.C. 371 et seq); authorizes the Secretary of the Interior to locate, construct, operate, and maintain works for the storage, diversion and development of waters for the reclamation of arid and semi-arid lands in the western states.

Under the Act of April 16, 1906 (34 Stat. 116) Sec. 5 included development of power where necessary for the irrigation of lands under any project undertaken under the said Reclamation Act (1902), or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding 10 years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: Provided, that no lease shall be made of such surplus power or power privilege as will impair the efficiency of the irrigation project.

The Flood Control Act of December 22, 1944, Sec. 5 delegated authority to the Secretary of the Interior, electric power and energy generated at the reservoir projects under control of the War Department and in the

opinion of the Secretary of War, not required in the operation of such projects shall be delegated to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective on confirmation and approval by the Federal Power Commission. Preference in the sale of such power and energy shall be given to public bodies and cooperatives.

FISH AND WILDLIFE SERVICE.

Created by the Fish and Wildlife Act of 1956 (70 Stat. 1119; 16 U.S.C. 742b), this bureau is responsible for overall policies affecting fish and wildlife. Action programs for fish and wildlife conservation are carried on by two subsidiary agencies, the Bureau of Commercial Fisheries and the Bureau of Sport Fisheries and Wildlife.

Bureau of Commercial Fisheries. This Bureau concerns itself with marine and inland fisheries including: biological research on species, the size of fish resources, their decline or increase, and the development and conservation of commercial fishery resources. Since the habitat of fish is water, this bureau is concerned with vater quality and water adequacy. It coordinates its activities with State agencies in interstate waters and with Federal agencies on water projects of Federal agencies, and with non-Federal agencies operating under Federal licenses, to insure economic management and conservation of the fishery resources of all the coasts of the United States as well as the Great Lakes and other inland waters. The Bureau of Commercial Fisheries Regional Office in Ann Arbor, Michigan, is the Office which serves the Grand River Basin.

Bureau of Sport Fisheries and Wildlife. Statutes and Executive Orders which relate specifically to the conservation of fish and wildlife in the Grand River Basin may be found in the U.S. Statutes at large, the U.S. Code, the Code of Federal Regulations, or the Federal Register.

The following acts authorize the acquisition of lands or Federal cost sharing of land acquisition, construction of facilities and management for fish and wildlife. These statutes are not specific to projects in the Grand River Basin.

 Migratory Bird Hunting Stamp Act - Act of March 16, 1934 (48 Stat. 451), as amended (15 U.S.C. 718-718i).

This act requires waterfowl hunters 16 years of age or older to possess a migratory bird hunting stamp; the net revenue to be used to acquire migratory bird refuges as authorized by the Migratory Bird Conservation Act and waterfowl production areas the acquisition of which is authorized by this act.

2. Pittman-Robertson Act, as amended (P.L. 75-533, September 27, 1937).

This act provides Federal aid to States in wildlife restoration. Funds for excise tax on sporting arms and ammunition are provided to States on a matching basis for wildlife research, land acquisition, development, maintenance and management.

 Transfer of Land for Wildlife Conservation Purposes (P.L. 80-537, May 19, 1948).

This act authorizes the transfer of real property from the control of a Federal agency where it is no longer required, to a wildlife conservation purpose if it can be utilized as such or is chiefly valuable for such use and can be transferred without reimbursement or transfer of funds.

4. Dingell-Johnson Act (P.L. 81-681, August 9, 1950) (H.R. 6533).

This act provides Federal aid to States in sport fish restoration. Funds from excise tax in sport fishing gear are provided to States on a matching basis for sport fisheries research, land and water acquisition, development, maintenance, and management.

Fish and Wildlife Act of 1956 (P.L. 84-1024, August 8, 1956) (S.3275).
 (70 Stat. 1119), as amended (16 U.S.C. 742a-742i).

This act establishes a comprehensive national fish and wildlife policy; establishes the present organizational set-up of the U.S. Fish and Wildlife Service, separating the service into two Bureaus; the Bureau of Commercial Fisheries and the Bureau of Sport Fisheries and Wildlife; directs the Secretary of the Interior to provide continuing research, extension and information services and to take any necessary steps to develop, manage, and conserve fishery and wildlife resources, including acquisition of refuge lands and development of existing facilities.

Amendment to Migratory Bird Hunting Stamp (P.L. 85-685, August 1, 1958)
 (3, 2617).

This act sets the fee for the "duck stamp" to be \$3; all monies received for such stamps shall be set aside as a special fund known as the migratory bird conservation fund to be used for location, ascertainment, and acquisition of migratory bird refuges and waterfowel production areas.

 Amendment to P.L. 566 and 1018 (P.L. 85-865, September 2, 1958) (H.R. 5497).

> This act authorizes Federal cost-sharing for fish and wildlife development at small watershed projects.

8. Matland Acquisition Program (P.L. 87-383, October 4, 1961) (H.R. 7391).

This act authorizes appropriation of \$105 million over a seven-year period, beginning with Fiscal Year 1662, for acquisition of wetland and other waterfowl habitat; funds are to be treated as an advance, without interest, to the migretory bird conservation (duck stamp) funds; advance to be repaid from duck stamp receipts beginning with Fiscal Year 1969.

9. Food and Agriculture Act of 1962 (P.L. 87-703, September 27, 1962) (H.R. 12391).

This act amends P.L. 566 to consider cost-sharing in plans for public fish, wildlife, and recreational developments on small watershed projects. Authorizes 10-year conservation reserve program and cost-sharing of wildlife practices on retired farmland.

10. Land and Mater Conservation Fund Act of 1965. (P.L. 88-578, September 3, 1964) (H.R. 3846; S. 859).

This act authorizes the Bureau to collect entrance fees at its installations where recreational facilities meet certain qualifications; authorizes appropriations from special fund for acquisition of recreation lands adjacent to National Wildlife Refuges and National Fish Hatcheries; and for any national area authorized for the preservation of fish and wildlife threatened with extinction; provides funds for Federal assistance to the States and Federal planning, acquisition, development and preservation of outdoor recreation resources.

Federal Water Project Recreation Act (P.L. 89-72, July 9, 1965).
 (S. 1229; H.R. 5269; H.R. 9032).

This act provides uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiplepurpose water resource projects, and to provide the Secretary of the Interior with authority for recreation development of projects under his control. The follo ing acts are concerned with or include sections pertaining to conservation and development of the fish and wildlife resources and the recreational use thereof of Federal and non-Federal water resource projects.

1. Fish and Wildlife Coordination Act - Act of March 10, 1934 (48 Stat. 401), as amended (16 U.S.C. 661-666e).

This act authorizes the Secretary of the Interior to assist Federal, State and other agencies in developing, protecting, rearing, and stocking fish and wildlife and in controlling losses thereof; authorizes the wildlife surveys of all Federal lands and surveys on the effect of pollution; authorizes surveys to prevent losses of and to enhance fish and wildlife at wateruse projects constructed or licensed by the Federal Government; authorizes incorporation of conservation measures at Federal water-use projects and the use of project lands by Bureau of Sports Fisheries and Wildlife or State fish and game agencies.

2. Flood Control Act, 1946 (P.L. 79-526, July 24, 1946).

This act amends Section 4 of the Flood Control Act, 1944 relating to public use of reservoir areas. Section 7 authorizes the Secretary of War to grant easements on lands under jurisdiction for several purposes including dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish cultural improvements.

3. Sea Lamprey Eradication (P.L. 79-672, August 8, 1946), as amended.

This act provides for investigation and eradication of the sea lamprey in the Great Lakes and tributary waters.

4. Water Pollution Control Act (P.L. 80-845, June 30, 1948) (S.418).

This act provides for water pollution control activities including interstate cooperation, research, investigations and Federal aid to States, establishes a Federal Pollution Control Commission; requires establishment of water quality criteria.

5. Flood Control Act, 1954 (P.L. 83-370, September 3, 1954).

Section 209 of this act amends Section 4 of the Flood Control Act of 1946 relating to public use of reservoir lands. Also, it states "No use of any area to which this section amplies shall be permitted which is inconsistent with the laws for protection of fish and game of the State in which such area is situated."

6. Great Lakes Fishery Act of 1956 (P.L. 84-557, June 4, 1956) (S.3524).

This act gives effect to the convention of Great Lakes fisheries.

7. Cooperation of Federal Agencies in Prevention of Waterfowl Depredation (P.L. 84-654), July 3, 1956) (H.R. 7641).

This act authorizes the Secretary of the Interior to cooperate with Federal and non-Federal agencies in the prevention of waterfowl depredations and for other purposes.

8. Federal Water Pollution Control Act (P.L. 84-660, July 9, 1956).

This act provides for Water Pollution Control activities in the Public Health Service of the Department of Health, Education, and Welfare, and other purposes.

. Small Flood Con rol Projects (P.L. 84-685, July 11, 1956).

Public Law 665, 84th Congress, which amended previous legislation of 1948 and 1950, provides authority to the Chief of Engineers to construct small flood control projects that have not been specifically authorized by Congress; provided that each such project selected is complete within itself and is economically justified, and provided further that each project is limited to a Federal cost of not more than \$400,000 and the concerned local interest furnish the same assurances of local cooperation that are required for regularly authorized projects. The Federal limitation includes costs of all investigations, inspections, engineering, preparation of plans and specifications, supervision and administration.

10. Fish and Wildlife Coordination Act (P.L. 85-524, August 12, 1958) H.R. 12371, 8631, and 13138).

This act amends the Watershed Protection and Flood Prevention Act by adding at the end thereof the following new section:

"Sec. 12 - when the Secretary approves the furnishing of assistance to a local organization in preparing a plan for works of improvement as provided for in Section 3:

"(1) The Secretary shall so notify the Secretary of the Interior in order that the latter, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement that is acceptable to the local organization and the Secretary of Agriculture."

- "(2) Full consideration shall be given to the recommendations contained in any such report of the Secretary of the Interior as he may submit to the Secretary of Agriculture prior to the time the local organization and the Secretary of Agriculture have agreed on a plan for works of improvement. The plan shall include such of the technically and economically feasible works of improvement for wildlife purposes recommended in the report by the Secretary of the Interior as are acceptable to, and agreed to by, the local organizations and the Secretary of Agriculture, and such report of the Secretary of the Interior, accompany the plan for works of improvements when it is submitted to the Secretary of Agriculture for approval or transmitted to the Congress through the President.
- "(3) The cost of making surveys and investigations and of preparing reports concerning the conservation and development of wildlife resources shall be borne by the Secretary of the Interior out of funds appropriated to his Department."
- 11. Multiple-Use of National Forests (P.L. 26-157, June 12, 1960).

This act states that National Forests will be administered for outdoor recreation, range, timber, watershed and yildlife and fish purposes. Secretary of Agriculture authorized "to cooperate with interested State and local overnmental agencies and others"

12. Amend water Pollution Control Act Amendments of 1961 (P.L. 87-88, (July 20, 1961) (H.R. 6441).

This act provides for a more effective program of water pollution control, and for other purposes.

Amend Federal Power Act re Minor Projects (P.L. 87-647, September 7, 1962) (H.R. 6951) (S.1606).

This act exempts hydro projects under 2,000 HP from certain licensing provisions; legislature history makes clear that FPC will continue to recognize requirements of the Fish and wildlife Coordination Act and fishway provisions of the F.P. Act.

 Rivers and Harbors and Flood Control Act of 1962. (P.L. 87-874, October 23, 1962).

This act amends Section 103, Section 3 on beach erosion. Amends Section 207 of the Flood Control Act 1944. Authorizes construction and operation of park and recreation facilities of any Corps of Engineers water resource project (not just at reservoirs as in previous law) and grant of licenses to use lands at such projects for fish and wildlife conservation, etc.

15. Bald and Golden Eagle Protection (P.L. 87-884, October 24, 1962) (H.R. 489).

This act provides protection for the Golden Eagle, also Bald Eagle.

 Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309, May 20, 1964) (S. 627).

This act promotes state commercial fishery research and development projects.

 Public Works Appropriation Act of 1965 (P.L. 88-511, August 30, 1964) (H.R. 11579).

> This act provides transfer funds to Fish and Wildlife Service from the Corps of Engineers and Bureau of Reclamation general investigation and construction appropriations,

18. Department of Agriculture and Related Agencies Appropriations Act, 1965 (P.L. 88-573, September 2, 1964) (H.R. 11202).

Reuss Amendment - Prohibits use of Agricultural Stabilization and Conservation Service Funds for technical or financial assistance for drainage on wetlands now designated as Wetland Types III, IV, and V in Circular 39.

 Water Resources Planning Act (P.L. 8°-80, July 22, 1965) (S. 111 and H.R. 3620).

This act provided for the optimum development of the Nation's natural resources through the coordinated planning of water and related land resources, through the establishment of water resources council and river basin commissions, and providing financial assistance to the States in order to increase State participation in such planning.

20. water Quality Act of 1965 (P.L. 89-234) (S. 4) October 2, 1965.

This act amends the Federal Water Pollution Control Act to establish a Federal Pollution Control Commission, to provide grants for research and development, to increase grants for construction of sewage treatment works, to require establishment of water quality criteria, and for other purposes.

21. Anadromous Fish Act of 1965 (P.L. 89-304, October 30, 1965) (H.R. 23).

This act authorizes the Secretary of the Interior to initiate with the several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish and for other purposes.

22. Enlangered Species Preservation Act (P.L. 89-669, October 15, 1966) (80 Stat. 926).

This act authorizes a broad program of conservation of native species of fish and wildlife threatened with extinction through research, propagation, land acquisition and other activities; also, consolidates and expands activities for administration of the National Wildlife Refuge System.

TABLE N-2

FISH AND WILDLIFE

REPORTS ON WATER DEVELOPMENT PROJECTS

GRAND RIVER BASIN COMPREHENSIVE BASIN STUDY

AGENCY	REPORT	TYPE OF PROJECT
Federal Power Commission		
webber Hydro Plant (FPC 2566)	10/67	
Small Watershed Projects		
Fowlerville - Livingston County		
Upper Naple - Clinton County	5/66	
Catlin - Clinton County		
Muskrat - Clinton County		
Corps of Engineers Projects		
Grand Haven Harbor	1866	Navigation
Lower Grand River	1881	Navigation
Spring Lake Channel	1945	Navigation
Grandville	1962	Flood Control
Lansing	1955	Flood Control

GEOLOGICAL SURVEY.

The Organic Act of 1879 (20 Stat. 394; 43 U.S.C. 31), established the Geological Survey and provides for "....the classification of the public lands and examination of the geological structure, mineral resources and products of the national domain. As a part of its function, the Geological Survey investigates "....the quantity, distribution, chemical quality, sediment content, availability, and utilization of the surface and underground water supplies of the United States, its territories and possessions."

The Bureau of the Budget has further specified that the Geological Survey is responsible for the collection and interpretation of water resources data on a national network basis. The Geological Survey operates both directly and in cooperation with other Federal and State and local agencies in carrying out its water-resources functions.

The Survey determines the source, quantity, quality, distribution, movement, and availability of both surface and ground waters. It investigates floods and droughts, their magnitude, frequency, and relation to climatic and physiographic factors. It studies and reports on such matters as water requirements for industrial, domestic, and agricultural purposes, the physical and chemical quality of water resources, and the relation of water quality and suspended sediment load to various aspects of water resources development. It makes special hydrologic studies of the interrelationships between climate, topography, vegetation, soils, and water supply. It gives scientific and technical assistance in hydrologic fields to other Federal agencies. It coordinates the national water data acquisition work of Federal agencies. The Survey furnishes engineering supervision for certain Federal power permits and licenses. The District Office is located in Lansing, Michigan.

BUREAU OF INDIAN AFFAIRS.

The Bureau of Indian Affairs, which has its area office in Ninneapolis, is responsible for irrigation, drainage, and other water resources activities in connection with Indian Reservations. It plans, constructs, operates, and maintains water resource projects, and provides technical assistance to the Indians, toward the end of making them economically self-sufficient.

No Indian areas are located within the Crand River Basin.

BUREAU OF LAND MANAGEMENT.

The Bureau of Land Management was created on July 16, 1946, through the consolidation of the General Land Office (1812) and the Grazing Service (1934) in accordance with the provisions of Sections 402 and 403 of the President's Reorganization Plan of 1946 (5 U.S.C. 133y-16). Its primary function is to administer resources involved in about 600 million acres of Federal lands, of which it has exclusive jurisdiction over 477 million acres. The primary aspects of the Bureau's activities which touch

on vater are in connection with fish and vildlife conservation, use of public lands for hydroelectric power purposes, outdoor recreation, watershed protection and management, and wilderness protection.

The vatershed management program is involved with the conservation, development, and use of water in preserving and protecting soil and vater resources. It combines land treatment with regulation of surface water runoff to control erosion and to stabilize soil. The program is administered through regional offices throughout the country. Within the Grand River Basin, the program is administered by the Eastern States Office in Washington, D.C.

BUREAU OF MINES.

The Bureau of Mines has no statutory au hority for the control or use of either water or of waste water disposal by the mineral industry. The basic authority under which the Bureau of Mine corks on water problems is contained in Public Law 179 (H.R. 139-15), May 6, 1910, and Public Law 386 (H.R. 17260), February 25, 1913. Section 2 of the latter act states: That it shall be the province and duty of the Bureau of Mines, subject to the approval of the Secretary of the Interior, to conduct inquiries and scientific and technologic investigations concerning mining, and the preparation, treatment, and utilization of mineral substances with a view to improving health conditions, and increasing, safety, efficiency, economic development, and conserving resources through the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries; to inquire into the economic conditions affecting these industries; to investigate explosives and peat; and on behalf of the Government to investigate the mineral fuels and unfinished mineral products belonging to or for the use of, the United States, with a view to their most efficient mining, preparation, treatment, and use; and to disseminate information concerning these subjects in such a manner as will best carry out the purpose of this Act."

The Secretary of the Interior, through the Fish and Wildlife Service and the Bureau of Mines, is authorized to make such investigations as he deems necessary to determine the effects of domestic sewage, mine, petroleum, and industrial wastes, erosion silt, and other polluting substances on wildlife and to make reports to the Congress concerning such investigations and of recommendations for alleviating dangerous and undesirable effects of such pollution. These investigations shall include (1) the determination of standards of water quality for the maintenance of vildlife; (2) the study of methods of abating and preventing pollution, including methods for the recovery of useful or marketable products and byproducts of wastes; and (3) the collation and distribution of data on the progress and results of such investigations for the use of Federal, State, municipal, and private agencies, individuals, organizations, or enterprises. Mar. 10, 1934, c. 55, Section 5, 48 Stat. 402; 1940 Reorg. Plan No. III, Section 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, c. 965, 60 Stat. 1080.

In the Flood Control Act of December 22, 1944, the Army Engineers were directed to cooperate with the Secretary of the Interior as follows: "....the Chief of Engineers shall give to the Secretary of the Interior, during the course of investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations."

Similar statements of policy were contained in subsequent flood control acts.

The Bureau of Mines at Minneapolis, Minnesota, is now conducting research in development of methods, techniques, instrumentation, and engineering principles for defining and controlling mine drainage problems. At yet other Bureau research centers, work is being done on control of acid mine water drainage, evaluation of discharge water from specific mineral processing plants, evaluation of water needs and utilization by the mineral industry, use of water in secondary oil recovery, and like problems.

NATIONAL PARK SERVICE.

The National Fark Service was established by the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1). There have been subsequent acts, executive orders, and proclamations that have added to the National Park System and therefore have expanded the work of the National Park Service. The duties of the National Park Service are administered by regional offices throughout the country. The Grand River Basin lies within Region 5, with offices in Philadelphia, Pennsylvania. The Act of August 7, 1946 (60 Stat. 885) provides authority to the National Park Service for administration, protection, improvement and maintenance of recreation on areas under jurisdiction of other agencies of the Government devoted to recreation use pursuant to cooperative agreements. An act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes, was approved August 21, 1935 (49 Stat. 666).

BUREAU OF OUTDOOR RECREATION.

Background of the Bureau of Outdoor Recreation.

A presidential message on conservation transmitted to Congress on March 1, 1962, announced the establishment of the Gureau of Outdoor Recreation in the Department of the Interior to serve as the focal point in the Federal Government for the many activities related to cutdoor recreation. On April 2, 1962, the Secretary of the Interior complied by establishing the Bureau of Outdoor Recreation. Legislative sanction for the Bureau was provided in the Organic Act (P.L. 88-29) of May 8, 1963, which gives the Bureau Government-wide responsibilities for the coordination, planning, and promotion of outdoor recreation activities. The duties are administered through the Washington office and six regional offices. The office serving the Grand River Basin is in Ann Arbor, Michigan.

The Bureau was created as a result of recommendations which the Outdoor Recreation Resources Review Commission submitted to the President and Congress on January 31, 1962, after a 3-year study. The Commission recommended (1) establishment of a national outdoor recreation policy; (2) guidelines for management of outdoor recreation resources; (3) expansion, modification, and intensification of outdoor recreation programs; (4) establishment of a Bureau of Outdoor Recreation; and (5) a Federal grants-in-aid program to the States.

Recreation Advisory Council.

On April 27, 1962, a Recreation Advisory Council was established by Executive Order No. 11017. Membership consists of the Secretaries of the Interior; Agriculture; Defense; Commerce; Housing and Urban Development; Health, Eduction, and Welfare; and the Chairman of the Tennessee Valley Authority. Each member of the Council serves a 2-year term as chairman.

The Council is directed to provide broad policy advice to the heads of Federal agencies on all important matters affecting outdoor recreation and to facilitate coordinated efforts among the various agencies.

As one of its functions, the Bureau of Outdoor Recreation provides staff assistance to the Recreation Advisory Council. Departments and agencies represented in the Recreation Advisory Council have appointed liaison representatives who also serve as staff to the Council.

The Recreation Advisory Council has issued seven major policy circulars during its existence. These are:

Circular No. 1 - "Federal Executive Branch Policy Governing the Selection, Establishment, and Administration of National Recreation Areas," March 26, 1963.

Circular No. 2 - "General Policy Guidelines for Outdoor Recreation," April 9, 1964.

Circular No. 3 - "Policy Governing the Water Pollution and Public Health Aspects of Outdoor Recreation," April 9, 1964.

Circular No. 4 - "A National Program of Scenic Roads and Parkways," April 9, 1964.

Circular No. 5 - "Guides for Federal Outdoor Recreation Investment," October 20, 1965.

Circular No. 6 - "Federal Executive Policy Governing the Reporting of Recreational Use on Federal Recreation Areas," October 20, 1965.

Circular No. 7 - "Non-Féderal Management of Recreational Facilities on Federal Lands and Waters," October 20, 1965.

In addition to the Executive Branch policies set forth in the seven circulars, the Recreation Advisory Council is considering other policy problems. These include:

- 1. Development of a system of recreation user charges and admission fees at Federal outdoor recreation areas.
- 2. Delineation of the role of private enterprise, organizations, and individuals in providing outdoor recreation.
- 3. Establishment of principles governing assignment of land management responsibilities among Federal agencies at land and water reservoir projects.
 - 4. Outdoor recreation policy for Federal water resource developments.

Major legislation affecting the Bureau of Outdoor Recreation is listed below:

1. Organic Act of the Bureau of Outdoor Recreation of 1963, P.L. 88-29 (77 Stat. 49).

The Act authorizes the Secretary of the Interior to perform several functions which are vital if the Nation is to provide effectively for its outdoor recreation needs. These authorities subsequently have been delegated to the Bureau of Outdoor Recreation.

They provide that the Bureau:

- a. Prepare and maintain a continuing inventory of the outdoor recreation needs and resources of the United States.
- b. Prepare a system for classification of outdoor recreation resources.
 - c. Formulate and maintain a nationwide outdoor recreation plan.
- d. Give technical assistance and cooperate with the States, their political subdivisions, and private interests.
- e. Encourage interstate and regional cooperation in planning, acquisition, and development of outdoor recreation.
 - f. Sponsor, engage in, and assist research and education programs.
- g. Encourage interdepartmental cooperation and promote coordination of Federal plans and activities generally relating to outdoor recreation.
 - h. Accept and use donations for outdoor recreation purposes.

The Act also directs heads of Federal departments and agencies with outdoor recreation responsibilities to consult with and be consulted by the Secretary of the Interior, and to carry out their outdoor recreation responsibilities in conformance with the authorized nationwide outdoor recreation plan.

The Act, now known as the Organic Act of the Bureau of Outdoor Recreation, gives strong Congressional approval to major recommendations of the Outdoor Recreation Resources Review Commission. Section 1 of the new law states:

That the Congress finds and declares it to be desirable that all American people of present and future generations be assured adequate outdoor recreation resources, and that it is desirable for all levels of government and private interests to take prompt and coordinated action...to conserve, develop, and utilize such resources for the benefit and enjoyment of the American people.

- The Land and Water Conservation Fund Act of 1964 P.L.88-578 (78 Stat. 897).
- a. General. The program creates a Land and water Conservation Fund from which Congress may appropriate money to provide urgently needed public outdoor recreation areas and facilities. States and certain Federal agencies are eligible to receive such money. States may allocate portions of the money they receive to their political subdivisions and to other non-Federal public agencies. The program became effective January 1, 1965, and willcontinue for 25 years.
- b. Sources of Fund Money. The Land and Water Conservation Fund derives revenue from (1) admission and user fees at Federal recreation areas which meet certain qualifications; (2) net proceeds from sale of surplus Federal real property; (3) existing Federal tax on motorboat fuels. It also includes authority for repayable advance appropriations by the Congress. These may average up to \$60 million annually for an 8-year period, beginning in 1967.
- c. <u>State-Federal Division of Fund Money</u>. Sixty percent of annual appropriations from the Land and Water Conservation Fund will be available to the States as grants-in-aid, unless the percentage is changed during the first 5-years by the President or at any time by the Congress.

Grants to the States may not exceed 50 percent of the cost of planning, acquisition, or development of projects.

A comprehensive statewide outdoor recreation plan prepared by the State and found adequate by the Director of the Bureau of Outdoor Recreation is prerequisite to receiving grants for acquisition or development. States may transfer money to their political subdivisions and to other non-Federal public agencies for approved projects. To be eligible for assistance, proposed projects must be in accord with the state plan and meet all other requirements of the Act.

Forty percent of money appropriated from the Fund normally will be available to (1) certain Federal agencies for purchases of needed recreation areas and (2) for payment into the Treasury to help offset capital costs of public recreation and fish and wildlife enhancement at Federal water development projects authorized after the date of the Act.

- d. Allocation of State's Share. The 60 percent of the Land and water Conservation Fund normally available to the states is apportioned as follows:
 - (1) Two-fifths, divided equally among the States.
- (2) Three-fifths, apportioned among the States according to need. The Secretary of the Interior will determine needs under terms set in the act.
- e. <u>Limitations on the Fund.-</u> The Fund program provides no automatic financing. Money in the Fund can be spent only upon appropriation by Congress. This will be done through regular annual budget processes.

Although the Fund does not authorize acquisition of Federal lands, it does provide funds for acquiring authorized areas.

The program changes no existing procedures for disposal of Federal surplus real property.

- f. Where Recreation Fees are Authorized. The Land and Water Conservation Fund Act authorizes the Federal Government to collect admission or user fees at certain Federal recreation areas. Areas where fees are charged must meet all of five conditions. They must:
 - (1) Be designated and posted as areas where fees are collected.
- (2) Be administered by a Federal agency. This excludes Federal areas leased to State, local, or private agencies.
- (3) Contain recreation facilities or offer recreation services provided at Federal expense.
- (4) Be administered primarily for scenic, scientific, historical, cultural, or other recreational purposes.
- (5) Be of such nature that fee collection is administratively and economically practicabl.

The Act prohibits Federal recreation fees for use of any waters; for travel through designated Federal recreation areas on any national parkway, on Federal-aid highways, on roads within the national forest system, or on public land commonly used for through travel; for access to private inholdings; or for commercial or other activities not related to recreation. The Act in no way authorizes Federal hunting or fishin licenses.

 Federal Water Project Recreation Act of 1965, P.L. 89-72 (79 Stat. 213)

Establishes uniform policies and procedures relating to benefits and costs of recreation and enhancement of fish and wildlife of Federal multipurpose water resource projects (except Tennessee Valley Authority, small watershed projects, and small reclamation projects) as follows:

- a. Establishes national policy for multiple-purpose water resource projects that $\boldsymbol{\cdot}$ -
 - (1) Full consideration be given to recreation and enhancement of fish and vildlife.
 - (2) There be coordination planning with existing and planned Federal, State, and local outdoor recreation programs. The effect is to recognize recreation and fish and wildlife enhancement as project purposes on the same basis as other project purposes.
 - (3) Except at those areas appropriate for Federal administration, construction agencies shall encourage local administration, operation, maintenance, and replacement of recreation and fish and wildlife facilities. Generally, those areas appropriate for Federal administration may be defined as those which are:
 - (a) part of the national forest system;
 - (b) part of the public lands classified for retention in Federal ownership;
 - (c) already included or appropriate for inclusion in a national recreation area; or
 - (d) part of or connected with an authorized Federal program for the conservation and development of fish and wildlife. (Refer to Non-Federal Management of Recreation Facilities on Federal Lands and Water, Recreation Advisory Council Circular No. 7, for further information.)
- b. Establishes uniform procedures for participation by non-Federal public bodies, as follows:
 - (1) For projects not yet authorized.
 - (a) if non-Federal bodies indicate their intent to:
 - administer the project land and water areas for recreation and fish and wildlife;
 - 2. pay one-half of the separable costs; and

- <u>3.</u> pay all the costs of operation, maintenance, and replacement of facilities--then the determination of economic benefits will include those attributable to outdoor recreation and enhancement of fish and wildlife, and the Federal government will pay all the joint costs attributable to outdoor recreation and fish and wildlife and the other half of the separable costs.
- (b) provides for alternative methods of repayment of the non-Federal share by means of:
- 1. cash, land, or facilities;
- 2. repayment with interest within 50 years, with authority to designate fees collected at such areas by non-Federal bodies as the source of funds for such repayments, provided the fee schedule and the portion earmarked for such repayment, are subject to review and renegotiation at least every five years.
- (c) in the event there is no non-Federal interest and indication of intent for administration and cost sharing, the Federal Government is authorized to protect the recreation and fish and wildlife enhancement potential by providing minimum facilities for public health and safety at Federal expense, and to acquire adequate lands to preserve the recreation and fish and wildlife enhancement potential of the project. Project costs allocated to recreation and fish and wildlife enhancement on this basis shall be non-reimbursable.
- (d) at projects where the Federal Government acquires land for possible recreation and fish and wildlife enhancement development, in order that these objectives may be achieved, non-Federal bodies will have a 10-year period in which to enter into an agreement for administration and cost sharing. But under such circumstances there can be no reallocation of joint costs of the project to include recreation and fish and wildlife enhancement benefits. This means that if non-Federal bodies wait until after a project has been authorized to agree to administer and share the costs of the recreation and fish and wildlife enhancement, they do not get the benefits of the Federal Government assuming, on a non-reimbursable basis, the joint costs allocated to such resources which they would have received had agreement been reached prior to authorization.

- (e) if the 10-year period expires without non-Federal agreement for administration and cost sharing, the lands acquired for recreation and fish and wildlife purposes at Federal expense must be disposed of by the construction agency as follows:
- 1. use them for an authorized purpose;
- sell them to the immediate prior owner at fair market value;
- 3. transfer them to another Federal agency;
- 4. lease them to a non-Federal agency; or
- 5. dispose of them through surplus property procedure.
- (f) water resource project lands within or adjacent to national forests may be transferred by the Secretary of the Interior to jurisdiction of the Secretary of Agriculture for recreation and national forest purposes. Such transfers <u>must</u> be made where project reservoir area <u>is</u> wholly within national forest unless Secretaries of the Interior and Agriculture agree otherwise.
- (g) the Act provides that it cannot be taken to authorize reclamation, rivers and harbors, or flood control projects where the allocations to recreation and fish and wildlife enhancement exceed the allocations to irrigation, hydroelectric power, municipal, domestic and industrial water supply, navigation, and flood control (except, as indicated, where anadromous fisheries, shrimp, and migratory birds are involved).
- (2) For existing projects and those under construction on date of Act.
- (a) authorizes leasing to and administration by non-Federal agencies of recreation and fish and wildlife facilities and appropriate lands, provided they agree to bear the costs of operation, maintenance, and replacement of existing facilities serving recreation and fish and wildlife enhancement purposes.
- (b) authorizes the Secretary of the Interior to acquire lands and provide recreation and fish and wildlife enhancement facilities at existing projects under his control, within a limit of \$100,000 per reservoir project, provided non-Federal bodies agree to administer such resources, pay one-half the costs of lands and facilities involved, and all the cost of operating, maintaining, and replacing such facilities.

- c. Requires, in connection with any project report, the views of the Secretary of the Interior with respect to the outdoor recreation aspects of any project, developed in accordance with Section 3 of the BOR Organic Act of May 28, 1963. Such views must include also the extent to which the proposed recreation and fish and wildlife development is coordinated with other existing and planned recreation development and conforms with the statewide plan or plans required by the Land and Water Conservation Fund Act.
- d. Amends the Land and Water Conservation Fund Act to make it clear that:
 - (1) Any fees collected by Federal agencies at Federal areas designated pursuant to that Act shall be credited to the Land and Water Conservation Fund and not to any other special funds, such as the Reclamation Fund.
 - (2) Offset provisions for Federal water projects under the Land and water Conservation Fund Act shall not include areas administered by non-Federal agencies in determining the amount to be deposited in miscellaneous receipts under Section 6 (a)(2) of the Land and Water Conservation Fund.
- e. Prohibits the preparation of any feasibility report under the Reclamation Law after June 30, 1066, unless the preparation of such feasibility report is specifically authorized by law. The preparation of feasibility reports by the Corps of Engineers is not affected by this prohibition, nor is BOR assistance in such Corps reports affected.

Other Laws Related to Outdoor Recreation.

The following Acts also provide for the development or improvement of recreation facilities and resources. Administrative responsibility for these programs rest with other Federal agencies, although in some instances, the Bureau of Outdoor Recreation functions in a review and coordination capacity. Many of these Acts will be covered in detail by other agencies, therefore, the legislative citations in this section are limited to a chronological listing with a brief state of their relation to outdoor recreation. The agency having primary responsibility for administering the Act is shown in parenthesis.

National Park Service Act of 1916. (39 Stat. 535; 16 U.S.C.1, et seq)
An act to establish a National Park Service in the United States Department of the Interior.

Recreation and Public Purposes Act of 1926 (44 Stat. (41; 68 Stat. 173; 73 Stat. 110; 43 U.S.C. 869.) An act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes. (Burea of Land Management)

Historic Sites Act of 1935 (49 Stat. 666; 16 U.S.C. 461 et seq) An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance. (National Park Service - NPS).

National Park Administration Act of 1936 (49 Stat. 1894; 16 U.S.C. 17k) An Act to authorize a study of the park, parkway and recreation area programs in the U.S. (NPS)

Federal Aid in wildlife Restoration Act of 1937 (Pittman-Robertson) (50 Stat. 917; 16 U.S.C. 669, et seq) An Act to provide Federal aid to the States for wildlife restoration projects. (Bureau of Sport Fisheries and wildlife - BSFW)

Public Health Service Act of 1944, P.L. 78-410 (58 Stat. 682; 42 U.S.C. 201, et seq). An Act to consolidate and revise the laws relating to the Public Health Service. (PHS)

Surplus Property Act of 1944, P.L. 78-457 (58 Stat. 765; 50 U.S.C. App. 1522 (h)(1). The Act provides for the disposition of Government surplus property to Federal, State, and local government agencies for public use including recreation. (General Services Administration)

Flood Control Act of 1944, P.L.78-534 (58 Stat. 887; 33 U.S.C. 701-1)
The Act authorizes the construction of certain public works on rivers and harbors for flood control and for other purposes. The Chief of Engineers was given authority to construct, maintain, and operate public park and recreational facilities in reservoir areas. In addition, the granting of leases of lands, structures, and facilities was also authorized. (Corps of Engineers - C of E)

Water Pollution Control Act of 1948, P.L. 80-845 (62 Stat. 1155) The Act provides for water pollution control to improve waters for public water supplies, propagation of fish and aquatic life, recreational purposes, and agricultural, industrial, and other legitimate uses. (PHS)

Housing Act of 1949, Title I, Slum Clearance and Urban Kenewal (42 U.S.C. 1441, 1450, et seq) Provides funds for urban renewal and community betterment. (Housing and Home Finance Agency - HHFA, now Housing and Urban Development - HUD)

Federal Aid in Fish Restoration and Management Projects Act of 1950, P.L. 81-681 (Dingell-Johnson) (64 Stat. 430; 16 U.S.C. 777, et seq) The Act provides for Federal Aid to the States for fish restoration and management projects. (BSFW)

Housing Act of 1954, Sec. 701, P.L. 83-560 (See Housing Act of 1961 (68 Stat. 640) Section 701 of the Act provides for planning grants to facilitate urban planning. Grants can be made to official State metropolitan, or regional planning agencies for comprehensive planning including recreation. (HHFA now HUD)

Watershed Protection and Flood Prevention Act of 1954, P.L. 83-566 (68 Stat. 666; 16 U.S.C. 1001, et seq) The Act authorizes the Secretary of Agriculture to cooperate with the States and local agencies in the planning and development of reservoirs and other structures for soil conservation and flood prevention. (Soil Conservation Service--SCS)

Federal Water Pollution Control Act of 1956, P.L. 84-660 (62 Stat. 1155, 70 Stat. 498; 33 U.S.C. 466, et seq) An Act to extend and strengthen the Water Pollution Control Act of 1948 by providing technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and confrol of water pollution. (PHS)

Outdoor Recreation Resources Review Act of 1958, P.L. 85-470 (72 Stat. 293; (238) 16 U.S.C. 17k-note) An Act for the establishment of a National Outdoor Recreation Resource Review Commission to study the outdoor recreation resources of the public lands and other lands and water areas of the United States. (Terminated after completion of the study)

Fish and Wildlife Coordination Act of 1958, P.L. 85-624 (72 Stat. 563; 16 U.S.C. 661, et seq) An amendment of the Wildlife Conservation Act of 1934 to provide for more effective integration of fish and wildlife conservation program with Federal water resource developments. (BSFW)

Federal Aid Highway Act of 1958, P.L. 85-766 (72 Stat. 885; 23 U.S.C. 101, et seq) An Act to provide for the acceleration of the national system of Interstate and Defense Highways. (Bureau of Public Roads - BPR)

National Forests; Multiple Use -- Congressional Declaration of Policy, 1960, P.L. 86-517 (74 Stat. 215; 16 U.S.C. 523) The Act authorized and directed that the national forests be managed under principles of multiple use to produce a sustained yield of products and services. Consideration is to be given to outdoor recreation, range, timber, watershed, and fish and wildlife purposes when not in conflict with the primary purposes for establishing the forest. (Forest Service - FS)

Area Redevelopment Act of 1961, P.L. 87-27 (75 Stat. 47; 42 U.S.C. 2501, et seq) To establish a program to alleviate unemployment and underemployment in certain economically distressed areas. Grants can be made for the construction, rehabilitation, alteration, expansion, or improvement of public facilities including recreation consistent with other provisions of the Act. (Area Redevelopment Administration-ARA now Economic Development Administration-EDA)

Housing Act of 1961, Title VII, P.L. 87-70 (See Housing Act of 1954) 42 U.S.C. 1599, et seq) The Acts provide funds for open space and the planning, acquisition, and development of recreational, conservation, and scenic areas in urban areas. (HHFA now HUD)

Food and Agriculture Act of 1962, P.L. 87-703 (76 Stat. 605, 607; 5 U.S.C. 1010, 1011, et seq) The Act authorized loans for all types of farm enterprises including recreation and fish and wildlife developments. (Farmers Home Administration-FHA)

Refuge-Hatcheries Recreation Act of 1962, P.L. 87-714 (76 Stat. 653; 15 U.S.C. 460k) The Act authorized the use of national fish and wild-life conservation areas for public recreation to the extent that such use is compatible with the primary purposes of such areas. (BSFW)

Rivers and Harbors Flood Control Act of 1962, P.L. 37-874 (76 Stat. 1173; 16 U.S.C. 460d) The Act authorized the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and other purposes including recreation. (C of E)

National Wildlife Refuge Revenue Sharing Act of 1964, P.L. 88-523 (76 Stat. 701) The Act provided for increasing the participation by counties in revenues from the National Wildlife Refuge System by amending the Act of June 15, 1935. (BSFW)

Wilderness Act of 1964, P.L. 88-577 (78 Stat. 890). The Act establishes a National Wilderness Preservation System. (FS, NPS, and BSFW)

Water Resources Planning Act of 1965, P.L. 89-80 (79 Stat. 244) An Act to provide for the optimum development of the Nation's natural resources through the coordinated planning of water and related land resources, through the establishment of a Water Resources Council and river basin commissions. The Act also provides for grants to States to assist them in developing and participating in comprehensive water and related land resource planning.

Housing and Urban Development Act of 1965, P.L. 89-117 (79 Stat. 451) The Act liberalizes the authority for making "open space" (50% Federal matching) grants for planning, acquisition, and development for recreational purposes in urban areas. (HHFA now HUD)

Department of Housing and Urban Development Act of 1965, P.L. 89-174 (79 Stat. 667) The Act establishes the new department of Housing and Urban Development to achieve maximum coordination of Federal programs which have a major impact on community development.

Public works and Economic Development Act of 1965, P.L. 89-136 (79 Stat. 552). The Act provides grants for the development of public facilities such as recreational and tourism complexes that will make a general contribution to he economic development of an area. (Economic Development Administration - EDA)

Economic Opportunities Act of 1965, P.L. 89-253 (79 Stat. 973). The Act was established to combat paverty; provides for conservation youth camps and training centers for conserving and developing natural resources and for protecting public recreational areas. The Act also enlarges the grant authority on community action programs including grants for recreational developments. (Office of Economic Opportunities - 0EO)

water Quality Act of 1965, P.L. 89-234 (79 Stat. 903). The Act amends the water Pollution Control Act of 1956, provides grants to States and municipalities and authorizes the establishment of water quality standards which give consideration to recreation and fish and wildlife values. (Water Pollution Control Commission)

Highway Beautification Act of 1965, Public Law 89-285, (79 Stat. 1028). The Act provides for scenic development and highway beautification of the Federal Aid Highway System by establishing standards for the location of billboards, the screening of junkyards, and the beautification of highway rights-of-way. (BPR)

Food and Acriculture Act of 1965, P.L. 89-321 (79 Stat. 1187). The Act provides for the diversion of cropland to non-agricultural uses including development for recreation uses. (Agricultural Stabilization and Conservation Service - ASCS)

Elementary and Secondary Education Act of 1965, P.L. 89-10 (79 Stat. 40). Provides grants for planning, establishment, maintenance, and operation of programs in local elementary and secondary schools by providing supplementary education services and activities such as school health, physical education, recreation and other services. (Health, Education, and Welfare-HEW.)

Department of Transportation Act, Public Law 89-670, (80 Stat. 931). Provides for the establishment of a Department of Transportation and, among other things, provides for the protection of public parks, recreation areas, wildlife and waterfowl refuges, and historic sites from usurpation for highway construction.

Demonstration Cities and Metropolitan Development Act of 1966, P.L. 89-754 (80 Stat. 1255). Provides for assistance in comprehensive city demonstration programs for rebuilding slums and blighted areas and for the public facilities and services necessary to improve the general welfare of the people who live in these areas.

Conservation and Protection of Fish and Wildlife, P.L. 89-669 (80 Stat. 926). Provides for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds, that are threatened with extinction.

Preservation of Historic Properties, P.L. 89-665 (80 Stat. 915). Provides for the preservation of additional historic properties throughout the nation.

water Research Program, P.L. 89-404 (80 Stat. 129-130). To promote a more adequate national program of vater research.

Clean Water Restoration Act of 1966, P.L. 89-753 (80 Stat. 1246). Provides for amendment of the Federal Water Pollution Control Act in order to improve and make more effective certain programs pursuant to such Act.

Executive Orders Related to Outdoor Recreation.

- a. Executive Order No. 11200, Harch 1965 Provided for establishing user fees pursuant to the Land and Water Conservation Fund Act of 1965.
- b. Executive Order No. 11237, July 27, 1965 Prescribed regulations for coordinating planning and the acquisition of land under the Outdoor Recreation Program of the Department of the Interior and the Open Space Program of the Housing and Home Finance Administration.
- c. Executive Order No. 11278, May 1966 Established a President's Gouncil and a Committee on Recreation and Natural Beauty.
- d. Executive Order No. 11288, July 2, 1966 Prevention, control, and abatement of water pollution by Federal activities.
- e. Executive Order No. 11296, August 1º66 Evaluation of flood hazards in locating Federally-owned or financed buildings, roads, and other facilities, and in disposing of Federal lands and properties.

FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

This agency was created by the Water Quality Act of 1965 (P.L. 89-234) approved Octover 2, 1965, to administer the Federal water Pollution Control Act (33 U.S.C. 466), formerly handled by the Public Health Service. The agency as transferred to the Department of the Interior by Reorganization Plan No. 2 of 1966, effective May 10, 1966. The reorganization plan excepted from the transfer certain functions related to the public health aspects of water pollution.

The purpose of the Federal Water Pollution Control Act, as amended, is to enhance the quality and value of our vater resources and to establish a national policy for the prevention, control and abatement of water pollution." The Clean Water Restoration Act of 1966 (Public Law 89-753), approved 3 November 1966, constitutes the latest amendment to the Water Pollution Control Act (1956). Basic legislation related to vater pollution control is outlined below.

The water Pollution Control Act of 1948

Proposals for Federal legislation were deliberated intensively and extensively before and after World War II. Legislative efforts, interrupted by the War, were continued until 1948 when the Water Pollution Control Act was enacted. This Act gave the Public Health Service, in cooperation with other agencies, the responsibility of cleaning up the contaminated rivers and lakes. The law was initially limited to five years; it was reviewed, revised, and renewed to 1956. The 1948 Act broadened the partnership of Federal and State efforts in water pollution abatement. It provided loans, and grants for research, planning and construction. It also established a Water Pollution Control Advisory Board with members from Federal, State, and local agencies and industry, conservation groups, and interested private citizens. Under the Act, major industry groups have voluntarily organized a National Technical Task Committee on Industrial Wastes.

The Advisory Board, a statutory external group, has had as members some of the country's most distinguished persons from public life, government, industry, conservation and health. It has actively supported water pollution control, public awareness and education programs, and advanced ideas including the inventory of Federal installations, and tax incentive to industry to control their pollution.

The National Technical Task Committee on Industrial Wastes has as its tasks and objectives: The development and adoption of practical methods of reclaiming, reducing, and treating wastes; promotion of more effective cooperation between industry and official agencies; dissemination of information on developments in the field; and preparing of industrial waste guides for industry groups.

The Federal Water Pollution Control Act of 1956 - P.L. 84-660

Althou h the 1948 Federal Water Pollution Control Act was passed after many years of deliberation, it was the first such Act, and was an experimental or trial effort. The appropriations were limited in relationship to the need. After further discussions, Congress passed the first comprehensive water pollution legislation in 1956. It was simed into law by President Eisenhower on July 9, 1956, and became Public Law 84-660, the Federal Water Pollution Control Act. It is under this Act and as amended in 1961, 1965 and 1966, that the present Federal efforts are directed.

The 1956 Act, P.L. 84-660, administered by the Surgeon General of the Public Health Service under the supervision and direction of the Secretary of the Department of Health, Education, and Welfare:

- Reaffirmed the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in preventing and controlling water pollution;
- Authorized continued Federal-State cooperation in the development of comprehensive programs for the control of water pollution;

- Authorized increased technical assistance to States and intensified and broadened research by using the research potential of universities and other institutions outside of Government;
- Authorized collection and dissemination of basic data on water quality relating to water pollution prevention and control;
- Directed the Surgeon General to continue to encourage interstate compacts and uniform State laws;
- Authorized grants to States and interstate agencies up to \$3,000,000 a year for the next five years for water pollution control activities;
- 7. Authorized Federal grants of \$50,000,000 a year (up to an aggregate of \$500,000,000) for the construction of municipal sewage treatment works, the amount for any one project not to exceed 30 percent of cost or \$250,000, whichever is smaller;
- Modified and simplified procedures governing Federal abatement actions against interstate pollution;
- 9. Authorized the appointment of a Water Pollution Control Advisory Board; and
- 10. Authorized a cooperative program to control pollution from Federal installations.

Water Supply Act of 1958 - Title III of Rivers and Harbors Act of 1958

Under the Water Supply Act of 1958, Congress made it possible for State and local interests to participate in the development of water supplies for domestic, municipal and industrial purposes. This 1958 Act provided a general policy for considering water supply in the civil works projects of the Corps of Engineers or the Bureau of Reclamation. Although water supply is considered to be the primary responsibility of State and local interests, the Federal agencies could participate and cooperate in developing water supplies in connection with the construction, maintenance, and operation of Federal navigation, flood control, irrigation and multipurpose projects.

An important provision of the Act as amended was to provide for the inclusion of storage for future municipal and industrial water needs in reservoir projects. An agreement was made, following the passage of the Act, between the Public Health Service and the Corps of Engineers under which the PHS will determine estimates of the need for and value of storage which may be provided in these reservoirs for municipal and industrial water supply purposes.

The Federal Water Pollution Control Act Amendments of 1:61

Experience with the 1956 Act, P.L. 84-660, resulted in proposals to amend it to provide for a stronger Federal role in water pollution control. Congress enacted, and President Kennedy signed into law, the Federal mater Pollution Control Act Amendments of 1961 on July 20, 1961. The new law provided:

- Extending Federal authority to enforce pollution abatement in incra-state waters, as well as interstate or navigable water, and also strengthened the enforcement procedures;
- 2. Increasing the authorized annual \$50,000,000 Federal financial assistance to municipalities for construction of waste treatment works to \$80,000,000 in 1962, \$90,000,000 in 1963, and \$100,000,000 for each of the four following fiscal years 1964-1967; raising the single grant limitation from \$250,000 to \$600,000; and providing for grants to communities combining in a joint project up to a limit of \$2,400,000;
- 3. Intensifying research toward wore effective methods of pollution control; authorizing for this purpose annual appropriations of \$5,000,000 up to an aggregate of \$25,000,000 and authorizing the establishment of field laboratory and research facilities in, along others, seven specified major areas of the Nation;
- 4. Extending for seven years, to June 30, 1968, and increasing Federal financial support to State and interstate mater pollution control programs by raising the annual appropriation authorization from \$3,000,000 to \$5,000,000;
- 5. Authorizing the inclusion of storage for regulating streamflow for the purpose of water quality control in the survey or planning of Federal reservoirs and impoundments; and
- 6. Designating the Secretary of the Department of Health, Education, and Welfare to administer the Act.

With the enactment of the P.L. 87-88, the Amended Federal Water Pollution Act of 1961, it was clear that the Congress of licy was increased activity on improving the quality and developing water resources. For the Corps of Engineers this meant that provisions for water quality control were to be considered as fully as other purposes. Low-flow augmentation was to be provided for storage when needed. However, storage and water releases were not to be provided as a substitute for adequate treatment or other methods of controlling wastes at the source.

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The Water Quality Act of 1965, P.L. 89-234

The major Federal effort to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution was centered in a new agency - the Federal Water Pollution Control Administration created within HEW under the Water Quality Act of 1965, P.L. 89-234. This Act amended the Basis Act of 1956 and Amendments of 1961. The 1965 Act also provided for increased assistance to metropolitan areas, studies for controlling wastes from combined storm and sanitary sewers, broader enforcement procedures, development of water quality standards for interstate waters, implementation and enforcement of these criteria.

The Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1961, and the Water Quality Act of 1965:

- 1. States a national policy for prevention, control and abatement of water pollution.
- Recognizes, preserves, and protects responsibilities of the states.
- 3. Provides Federal technical services and financial aid to states, municipalities and interstate agencies.
- 4. Establishes a new and separate agency, the Federal Water Pollution Control Administration, to administer the law under a powerful mandate from Congress.
- Authorizes preparation of comprehensive programs for water resource development to conserve waters for all legitimate uses.
- Directs Corps of Engineers to include storage in reservoirs for regulation of stream-flow for water quality control, i.e., low flow augmentation.
- Provides for consideration of costs of benefits from multipurpose projects.
- 8. Encourages uniformity in state laws.
- Expands and encourages research, investigations, training, information services, and demonstrations.
- Increases grants for state and interstate pollution control programs.
- 11. Increases construction grants:
 - Doubling the maximum amount for a single project from \$600,000 to \$1.2 million;

- b. Doubling the maximum grant for a multi-municipal project from \$2.4 million to \$4.8 million;
- c. Making an additional \$50 million available to States on a straight population basis, rather than a population per capita income basis; and with these additional funds the Federal grant may amount to the full 30 percent of the project cost if the State matches equally all Federal grants from its allocation; and
- d. Providing a 10 percent bonus incentive if the project conforms to an overall metropolitan development plan.
- Provides for development of water quality standards by States, or by the Secretary of HEW.
- Provides for strengthened procedures for abatement of interstate pollution.
- 14. Provides for the continuation of the Water Pollution Control Advisory Board.
- 15. Provides for cooperation to control pollution from Federal agencies.

Federal agencies were specifically directed to bring existing installations and future installations into compliance with the Water Quality Act of 1965, by Presidential Executive Order No. 11258, dated November 5, 1965.

Under Presidential Reorganization Plan No. 2, the Federal Water Pollution Control Administration was transferred from HEW to the Department of the Interior on May 1, 1966.

Clean Water Restoration Act of 1966

Some of the major provisions are summarized below:

Construction Grants

Increased the annual authorization fro construction grants from \$150 million in fiscal year 1967 to \$450 million in fiscal year 1968, \$700 million in fiscal year 1969, \$1 billion in fiscal year 1970, and \$1.25 billion in fiscal year 1971. Effective July 1, 1967, eliminated dollar ceilings on construction grants. A municipality will be able to receive at least a 30 percent Federal grant and, under certain conditions, as must as 55 percent. Grant conditions were as follows:

1. If a State agrees to put up 30 percent of the cost of all projects for which Federal sewage treatment plant construction funds are available, the Federal grant will be increased to 40 percent, reducing the city's share to 30 percent.

- 2. If, in addition, a State adopts enforceable water quality standards for the stream on which a proposed sewage treatment plant is located, the Federal grant will be increased to 50 percent. Both the State's share and city's share would then be reduced to 25 percent.
- 3. The Federal Covernment will increase the amount of a grant by 10 percent -- to a total of 55 percent -- if a project is certified by a metropolitan or regional planning agency as conforming with a comprehensive plan for a metropolitan area. This would reduce the city's share to 20 percent, with the State's share remaining at 25 percent.

Research, Investigation, and Information Activities

- Continue until fiscal year 1969, the authorization of \$20 million a year for research and demonstration projects on pollution from combined storm and sanitary sewers and separate storm sewers. Raised the Federal share from 50 percent to 75 percent, and removed the ceiling.
- 2. Authorized \$20 million a year for three years for States and interstate and local jurisdiction for projects demonstrating advanced waste treatment and water purification methods, and new or improved methods of joint treatment of municipal and industrial wastes. Allowed Federal grants of 75 percent of project costs.
- 3. Authorized \$20 million a year for three years for industry or private persons to help develop or demonstrate new or improved ways to prevent pollution of waters by industry. Authorized Federal grants covering 70 percent of project costs. Maximum grant for any project is \$1 million, and projects must have industry-wide application.
- Also authorized \$60 million in fiscal year 1968 and \$65 million in fiscal year 1969 for general research, investigation, training, and information activities.

Authorized \$3 million for special study of pollution problems in estuaries.

Other Provisions

 Directed Secretary of the Interior to make grants of up to 50 percent of the administrative expenses of State or interstate planning agencies developing comprehensive water wuality programs for entire river basins.

- 2. Authorized \$5 million for fiscal year 1967 and \$10 million annually for fiscal years 1968 through 1971 for grants to States and to interstate agencies to help them expand and improve their water pollution control programs, including the training of needed personnel.
- 3. Gave majority of conferees in an enforcement conference or public hearing the right to ask Secretary of the Interior to request an alleged polluter to file a report with him on the kind and quantity of discharges he is sending into a body of water. Allo authorized use of enforcement conference machinery for pollution problems involving boundary waters or rivers which the United States shares with Canada and Mexico.
- 4. Transferred responsibility for administering the Oil Pollution Act from the Secretary of the Army to the Secretary of the Interior.
- 5. Authorized special studies in the following areas: (a) the cost of carrying out the Rederal water pollution control program and of the national requirements to obtain clean water; (b) the need for additional trained State and local government personnel to carry out water pollution control programs; (c) pollution from boats and how to deal with it; and (d) methods for providing incentives, including tax incentives, to help industry reduce its pollution.

The Clean Water Restoration Act also amended the Oil Pollution Act of 1924 which prohibited the discharge of oil by vessels in the waters within the United States. The Federal Water Pollution Control Administration was made responsible for enforcement of this Act. Oil pollution in navigable waters from any source which is a hazard to navigation is the responsibility of the Corps of Engineers as authorized by the Rivers and Harbors Act of 1899. The Coast Guard provides support to both the Corps and FWPCA.

The Federal government has not overlooked the pollution hazards created by its own activities. By Executive Order 11288, President Johnson directed the heads of departments, agencies, and establishments of the Executive Branch of the Government to provide leadership in the nation-wide effort to improve water quality. The Order directed all agencies to present annually a phased and order plan for needed corrective and preventive measures and facilities to the Bureau of the Budget to facilitate budgeting procedures. The various agencies have consulted with the Federal Water follution Control Administration in an effort to insure maximum consideration of water quality in their activities.

Other Federal Approaches to Water Quality Management

The legislative response in 1965 to the growing public concern for water quality was the enactment of laws that provide a many-sided approach to the problems. Several federal agencies now have direct responsibilities.

The Department of Housing and Urban Development, under the Housing and Urban Development Act of 1965, offers grants and loans to communities that need water and sewer facilities. The financial assistance is available for planning, land acquisition, and construction of water and sewer systems.

The Public Works and Economic Development Act of 1965, under the Department of Commerce, provides for grants and loans for public works and development facilities in economically distressed areas. This Act enlarges the Economic Opportunity Act of 1964 (the Anti-Poverty Act). The financial assistance may be for construction of sewage treatment works, sewer systems, water systems, and land acquisition.

Under the Farmers Home Administration of the Department of Agriculture, loans and grants are available to rural communities for the construction, improvement and extension of water and sewer systems. Grants are authorized for comprehensive planning for the development of water and sewer systems in rural areas. These are available under the 1965 Amendments to the Consolidated Farmers Home Administration Act of 1961.

The Federal Water Pollution Control Administration continues to work with the Corps of Engineers and other agencies in the development of comprehensive river basin studies and in evaluation of need for flow augmentation for quality control.

Many agencies are now active in water supply and pollution control. The need to coordinate and establish priorities for many programs in water resource development was recognized by Congress; it enacted the water Resources Planning Act of 1965, P.L. 89-80, to accomplish those objectives. The Act provided or the creation of a water Resources Council composed of the Secretaries of the Interior, Agriculture, Army, HEW, and the Chairman of the Federal Power Commission. The Act also authorized the establishment of Regional River Easin Commissions. The Council has the responsibility of coordinating planning for development of land and water resources at the Federal level, and with the various Regional River Basin Commissions.

Participation in the Grand River Basin Comprehensive Study was provided by the Great Lakes Region of the Federal Water Pollution Control Administration, Chicago, Illinois.

DEPARTMENT OF TRANSPORTATION

The Department of Transportation Act, Public Law 89-670, (80 Stat. 931), provides for the establishment of a Department of Transportation. Agencies within this Department which have responsibilities in the field of water resources are the Bureau of Public Roads and the Coast Guard.

BUREAU OF PUBLIC ROADS.

The Bureau of Public Roads was initially established in the Department of Agriculture for the purpose of cooperating with the States through their State highway departments in the construction of rural post roads under the authority of the Federal-aid Road Act of 1916 (39 Stat. 355).

This act was amended by the Federal Highway Act of 1921 (42 Stat. 212) and several other acts prior to further revision and codification as Title 23, United States Code - "Highways," P.L. 85-767, approved in 1958. The Bureau of Public Roads was transferred from the Department of Commerce to the Department of Transportation by P.L. 89-670 (80 Stat. 931).

Although the Bureau of Public Roads, under existing law, has no responsibility for making recommendations to the Congress concerning proposed water resources development projects, it was within its sphere of activity, in connection with the improvement of Federal-aid and Forest highways, a coordinate duty to assist in obtaining needed factual information on highway relocation costs due to such projects in order that such data may be taken into account in arriving at sound decisions.

It is the policy of the Bureau of Public Roads to cooperate with Federal and State agencies in the early determination of those segments of Federal-aid or Forest highway routes that may need to be relocated for accommodation of water resources projects, in estimating the costs of such relocations, and in equitably allocating such costs between the water and highway interests. Upon the request of another Federal agency or a State highway department, the Bureau of Public Roads renders similar assistance with respect to roads not on these two systems.

Assistance to the States is carried out through regional and division offices. The Grand River Basin is served by the Region 4 office in Homewood, Illinois and the Michigan Division office in Lansing, Michigan. COAST GUARD.

The Coast Guard is a semi-military agency which becomes involved in water resources development through its responsibility for provision of aids to navigation in inland and coastal waterways and to establish and enforce safety regulations for recreational boating. Thus, all reports of the Corps of Engineers recommending improvement of navigation facilities are required to include a section dealing with aids to navigation based on studies by the Coast Guard, and the Coast Guard generally constructs, operates, and maintains such aids to navigation.

Coast Guard jurisdiction in the Grand River Basin lies within the District 9 office in Cleveland, Ohio.

Under the Reorganization Plan, certain duties are being transferred from the Corps of Engineers to the Coast Guard. Features of this transfer are as follows:

Section 6 (g) of the Act of October 15, 1966, P.L. 89-670 transfers to and vests in the Secretary of Transportation certain functions, powers, and duties, previously vested in the Secretary of the Army and other offices of the Department of the Army. On the effective date for the establishment of the Department of Transportation, the Commandant, U. S. Coast Guard, under a delegation of authority from the Secretary of Transportation will assume the functions, powers, and duties with respect to:

a. The following law and provisions of law relating generally to water vessel anchorages:

- (1) Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471);
- (2) Article 11 of Section I of the Act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180);
- (3) Rule 9 of Section 1 of the Act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258);
- (4) Rule No. 13 of Section 4233 of the Revised Statutes, as amended (33 U.S.C. 322).
- b. The following provision of law relating generally to draw-bridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).
- c. The following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511, et seq).
- d. The following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended (75 Stat 402; 33 U.S.C. 1001, et seq). and
- e. The following laws and provisions of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:
 - (1) Section 9 of the Act of March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 401);
 - (2) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.); and
 - (3) The General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525 et seq.) except Section 503.

In order to maintain continuity of service to the public during the transfer of records and the development of the necessary personnel structure and facilities within the Coast Guard, it is agreed that with respect to:

- The provision of law listed in Paragraph 1,b, relating generally to drawbridge operating regulations;
- b. The law listed in Paragraph 1,c, relating generally to obstructive bridges; and
- c. The laws and provisions of law listed in Paragraph 1,c, relating generally to the location and clearance of bridges and causeways in the navigable waters of the United States, the Corps of Engineers will, commencing on the effective date for the establishment of the Department of Transportation, perform on a reimbursement basis for and under the direction of the Commandant, U. S. Coast Guard, such of those services that it now performs as the Commandant requests.

It is further agreed that as the Coast Guard's facilities and personnel structure for the performance of these services develop, the utilization of Corps of Engineers services will be gradually discontinued and will be terminated no later than 30 June 1968.

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET.

In the field of water resources, the major duty of the Bureau of the Budget is set forth in Executive Order 9384, which is given here in part.

"In order to facilitate budgeting activities, all departments and establishments of the Executive Branch of the Federal Government, authorized by law to plan, propose, undertake, or aid public works and improvement projects financed in whole or in part by the Federal Government, shall prepare and keep up-to-date, by means of at least an annual revision, carefully planned and realistic long-range programs of such programs (all such programs being hereinafter referred to as 'advance programs')."

Whenever any estimate of appropriation is submitted to the Bureau of the Budget by such departments and establishments for the carrying out of any public works and improvement project or projects or for the financing of any such project or projects or for examinations, surveys, investigations, plans and specifications, or other planning activities, whether preliminary or detailed, for any such project or projects, the advance program @r programs relating to the proposed work or expenditures shall be submitted to the Bureau as an integral part of the justification of the estimates presented.

The Director of the Bureau, upon the basis of the estimates and advance programs submitted in accordance with the provisions of Paragraph 2 of this order shall report to the President from time to time, but not less than once a year, consolidated estimates and advance programs in the form of an overall advance program for the Executive Branch of the Government.

Before any department or establishment shall submit to the Congress, or to any committee or member thereof, a report relating to, or affecting in whole or in part, its advance programs, or the public works and improvement projects comprising such paperams, or the results of any plan preparation for such programs or programs or projects, such report shall be submitted to the Bureau for advice as to its relationship to the program of the President. When such report is thereafter submitted to the Congress, or to any committee or member thereof, it shall include a statement of the advice received from the Bureau.

OFFICE OF EMERGENCY PLANNING.

The Office of Emergency Planning has been designated by the President to administrate the Federal disaster assistance program, as set forth in the Federal Disaster Act, P.L. 81-875. The Act enables states and local governments to receive supplemental Federal assistance when the President declares a major disaster. A major disaster may be declared in the event

of war, earthquake, flood, hurricane, or other disaster. The administration of the disaster assistance program includes the authority to coordinate and direct the disaster relief activities of all Federal agencies, and to administer the disaster relief funds made available by Congressional appropriation to the President. Aftee the President declares a major disaster, the Office of Emergency Planning may direct any Federal agency to provide the needed assistance in the stricken area.

In the field of water resources, the objective of the emergency program is to assure adequate safe water for human survival and for essential services and industry, including livestock and agricultural requirements, through effective management and use of water resources during the emergency and the recovery period; conservation and effective use of manpower, materials, equipment, and supplies required for water supply operations; and operation, repair, and restoration of facilities to provide water for essential needs.

OFFICE OF SCIENCE AND TECHNOLOGY.

The Office of Science and Technology which serves as staff for the President's Science Advisor and Science Advisory Committee, is also the staff of the Council for Science and Technology. The Council for Science and Technology was created by Executive Order 10807 of March 1959. The organization and functions of the Council are as set forth in the Executive Order as follows:

"The Council shall be composed of the following-designated members:
(1) the Special Assistant to the President for Science and Technology;
(2) one representative of each of the following-named departments, who shall be designated by the Secretary of the Department concerned and shall be an official of the Department of policy rank: The Departments of Defense, the Interior, Agriculture, Commerce, and Health, Education, and Welfare; (3) the Director of the National Science Foundation; (4) the Administrator of the National Aeronautics and Space Administration; and (5) a representative of the Atomic Energy Commission, who shall be the Chairman of the Commission or another member of the Commission designated by the Chairman. A representative of the Secretary of State designated by the Secretary and a representative of the Director of the Bureau of the Budget designated by the Director may attend meetings of the Council as observers.

"Functions of Council.- (a) The Council shall consider problems and developments in the fields of science and technology and related attitutes affecting more than one Federal agency or concerning the over-divancement of the Nation's science and technology, and shall recommend and other measures (1) to provide more effective planning and tration of Federal scientific and technological programs; (2) research needs including areas of research requiring additional to achieve more effective utilization of the scientific and"

"technological resources and facilities of Federal agencies, including the elimination of unnecessary duplication; and (4) to further international cooperation in science and technology. In developing both policies and measures, the Council, after consulting, when considered appropriate by the Chairman, the National Academy of Sciences, the President's Science Advisory Committee, and other organizations, shall consider (i) the effects of Federal research and development policies and programs on non-Federal programs and institutions; (ii) long-range program plans designed to meet the scientific and technological needs of the Federal Government, including manpower and capital requirements; and (iii) the effects of non-Federal programd in science and technology upon Federal research and development policies and programs.

"The Council shall consider and recommend measures for the effective implementation of Federal policies concerning the administration and conduct of Federal programs in science and technology.

"The Council shall perform such other related duties as shall be assigned, consonant with law, by the President or by the Chairman.

"The Chairman shall, from time to time, submit to the President such of the Council's recommendations or reports as require the attention of the President by reason of their importance or character."

INDEPENDENT AGENCIES

ATOMIC ENERGY COMMISSION.

The Atomic Energy Commission was established by the Atomic Energy Act of 1946 (60 Stat. 755) as amended by the Atomic Energy Act of 1954, as amended (68 Stat. 919; 42 U.S.C. 2011 et seq).

"The purpose of the Atomic Energy Act is to provide the national policy that the development, use, and control of atomic energy shall be directed to make the maximum contribution to the general welfare and to the common defense and security, and to promote world peace, increase the standard of living, and strengthen free competition in private enterprise. The Atomic Energy Commission has been established to provide and administer programs and to encourage private participation in such programs for research and development, international cooperation, production of atomic energy and special nuclear materials, and the dissemination of scientific and technical information. The Commission has responsibility to protect the health and safety of the public, and to regulate the control and use of source, by-product and special nuclear materials."

The Grand River Basin is under the jurisdiction of the office in Naperville, Illinois.

FEDERAL POWER COMMISSION.

Basic authority of the Federal Power Commission for its water resources activities is the Federal Power Act, as amended. This Act was adopted in 1935 by including as Part I the Federal Water Power Act of 1920 relating to the licensing of non-Federal hydrolectric projects, and by adding Parts II and III vesting the Commission with jurisdiction over the transmission and sale at wholesale of electric energy in interstate commerce and public utilities engaged therein. The Act authorizes the Commission to make investigations and to collect and record data concerning the utilization of water resources in any region to be developed; to cooperate with other agencies of State or National Governments in water resources investigations; to review and evaluate the water power features of Federal multi-purpose river basin planning studies; and, subject to provisions contained in the Act, to issue licenses for periods not in excess of 50 years to non-Federal entities for the purpose of constructing, operating, and maintaining dams, water conduits, and reservoirs, or other facilities for the development of hydroelectric power in or affecting navigable waters or on any stream over which Congress has jurisdiction where the project affects interstate commerce, or on Government lands, or utilizing surplus water from Government dams. The projects to be licensed must in the judgment of the Commission be best adapted to a comprehensive basin plan for various beneficial purposes, including recreation; and the Commission supervises and inspects such projects to assure continuing compliance with these public interest standards. Act provides that the United States shall have the right, upon two years' written notice by the Commission, to take over projects licensed to non-public entities upon the expiration of the licenses. The Act also directs the Commission to determine the charges to be paid by a licensee or the non-Federal owner of an unlicensed project for benefits provided by headwater improvements of another licensee or of the United States. Also, the Commission determines the effect on power site values of proposed entries, locations or selections of public lands reserved for power sites, and acts upon applications for right-of-way, use permits, and leases affecting such sites. A listing of power project licenses in the Grand River Basin is given in Appendix L, "Power."

The Flood Control Act of 1938 and subsequent Flood Control and River and Harbor Acts authorize the Commission to investigate the power potentialities at projects to be constructed by the Department of the Army, and charges the Commission with the responsibility of making recommendations to the Secretary of the Army with regard to the installation of penstocks or similar facilities adapted to possible future use in the development of hydroelectric power at such projects.

Section 5 of the Flood Control Act of 1944 requires prior approval by the Federal Power Commission of rate schedules for the sale by the Secretary of the Interior of electric power and energy generated at reservoir projects under the control of the Department of the Army, and, in the opinion of the Secretary of the Army, not required in the operation of the projects. Similar rate approval responsibility for certain projects, together with the specific responsibility for allocating the costs of those projects, is contained in the Bonneville Project Act, the Fort Peck Project Act, the Eklutna Act, and the River and Harbor Act of 1945, as it relates to the McNary Project, and four projects on the Lower Snake River.

The Water Resources Planning Act of 1965 created a five-member Water Resources Council consisting of the Secretaries of Agriculture, the Army, the Interior, and Health, Education, and Welfare, and the Chairman of the Federal Power Commission. The Council is assigned broad powers to coordinate water resources planning, and the responsibility for administering a program of grants to the States for water resources planning purposes. Duties are administered through Regional Offices throughout the country. The Grand River Basin is served by the office in Chicago, Illinois.

INTERSTATE COMMERCE COMMISSION.

Water carriers operating on the inland rivers, the Great Lakes, the Gulf Intra-Coastal Canal, and intercoastal, have been under the jurisdiction of the Interstate Commerce Commission since 1887.

A review of the early legislation involving regulation of transportation by water will disclose that by the original act of 1887, the Commission was given limited jurisdiction over domestic common carriers by water engaged in interstate transportation partly by railroad and partly by water when both the rail and water carriers were utilized under a common control, management, or arrangement for a continuous carriage or shipment.

The Commission's jurisdiction over water carriers was expanded in certain respects with the enactment of the Panama Canal Act of 1912, the Inland Waterways Corporation Act of 1924, and the Transportation Act, 1920. The changes include Commission control over acquisition of water carriers by railroad, prescription of through routes and maximum joint rates with rail lines and measured to facilitate interchange of traffic with rail lines.

With the enactment of the Transportation Act of 1940, Part III was added to the Interstate Commerce Act which gave the Commission more extensive jurisdiction over water carriers than it theretofore had. The Bureau of Water Carriers was organized in January 1941 (presently the Bureau of Operations) and in charge of the administrative and compliance work. Regulation under Part III involves carriers which may be engaged in some services which are subject to complete economic regulation while they may, at the same time, perform services which are directly exempt by statute and others which are exempt by reason of a certificate of exemption or order having been granted by the

Commission. There are numerous carriers engaged in wholly exempt operations. Some exemptions depend upon the content of the vessel or tow. For example, the transportation of dry bulk commodities is exempt from regulation only if not more than three such commodities and no non-bulk commodities are carried in the same vessel or tow. (Section 303(b) of Part III of the Act)

Representatives of this Commission periodically review the activities of common and contract carriers subject to the Act as well as such carriers operating under the exemptions provided therein. Violations of the Act are handled in accordance with the penalty provisions contained in the Act.

I.C.C. jurisdiction extends only to economic regulation. Safety is the responsibility of the Coast Guard. A description of the transportation which is subject to I.C.C. jurisdiction is provided in Section 302 (i) of the Act. Other exemptions relate to ferries, small craft equipped to handle 16 passengers only, salvage operations, and liquid commodities.

There is also provided in Section 302 (d) of the Act, a provision that—nothing in this part (Part III) shall be construed of affect: any law of navigation; the admiralty jurisdiction of the courts of the United States; liabilities of vessels and their owners for loss or damage; laws respecting seamen; or other maritime law, regulation, or custom not in conflict with the provisions of Part III.

As information, the exemptions concerning transportation of not more than three bulk commodities in a tow, and no transportation of non-bulk commodities in the same tow (Section 302 (b)) has been the subject of court proceedings which have affirmed the Commission's decisions that the exemption does not apply where non-bulk and bulk commodities are in the same tow. However, legislation has been introduced that may overturn such construction.

NATIONAL SCIENCE FOUNDATION.

Created by the National Science Foundation Act of 1950 (64 Stat. 149; 42 U.S.C. 1861-1879), the fundamental purpose of the NSF is to strengthen basic research and education in the sciences of the United States. Among the Foundation's activities involving water are the program of research and development in weather modification, grants and contracts to universities and other non-profit organizations to support the construction of laboratories or specialized facilities in water science, and grants for research into water related sciences. It supports the National Center for Atmospheric Research, and provides fellowships and traineeships to graduate students in engineering, including sanitary and hydrologic engineering.

Although the Foundation has no special program for water resources research, grants are given for research and education in hydrology and several water-related resources. During fiscal year 1966, the National Science Foundation supported about \$1.7 million of water resources and water-related research. In addition, about \$1.2 million of the weather modification programmight be considered as water-related research.

WATER RESOURCES COUNCIL.

The Water Resources Council was created by Public Law 89-80. The duties and procedures as given in the Water Resources Planning Act are as follows:

"There is hereby established a Water Resources Council which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Chairman of the Federal Power Commission. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President.

"The Council shall --

- "(a) Maintain a continuing study and prepare an assessment biennially, or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; and
- "(b) Maintain a continuing study of the relation of regional or river basin plant and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs.

"The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission."

FEDERAL GRANT PROGRAMS

DEPARTMENT OF AGRICULTURE.

Funds are available for the Department of Agriculture under terms of revisions to the 1961 Consolidated Farmers Home Administration Act (Public Law 89-240), public and quasi-public agencies—as well as assistance for adevelopment and use of rural water supplies, waste treatment facilities and related facilities for ruralresidents.

Assistance may be in the form of grants for planning and development of facilities; loans or insurance of loans for related purposes. For purposes of water and waste disposal projects, "rural areas" is defined to exclude any area in a city or town which has no more than 5,500 inhabitants. Prerequisite for grant or loans is certification by state agencies that effluent from disposal works will meet State and Federal control standards. Facilities grants may be made to help finance specific projects.

DEPARTMENT OF COMMERCE.

Public Works and Economic Development Act of 1965 (P.L. 89-55) provides grants and loans for public works and development facilities, and for commercial and industrial facilities to help promote regional and local economic development. Projects eligible for loans and grants (Titles I and II) are to include "financing the purchase or development of land and improvements for public works, public service, or public development usage."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

Under the Solid Waste Disposal Act (P.L. 89-272), the Secretary may give financial and other assistance to State, interstate and local authorities for the conduct and coordination of research, investigations, experiments, training, demonstrations, surveys and studies of methods of disposing of solid wastes (defined as: "garbage, refuse and other discarded solid materials").

Under the Clean Air Act (P.L. 88-206), as amended, the Secretary may give financial and other assistance to air pollution control agencies in support of air pollution control programs and for the conducting and coordination of research, investigations, experiments, training, surveys and studies in the control of air pollution.

Grants for water supply planning and activities are also available under the Comprehensive Health Planning Act of 1966 (P.L. 89-749). This Act provides for formula grants to States for comprehensive state health

planning, project grants to public or private non-profit applicants for area-wide health planning, and project grants for training, studies and demonstrations in effective comprehensive health planning. It also provides formula grants for comprehensive public health services and project grants for health services development. Support for environmental health planning, projects, and services, including water supply planning and activities, are eligible for support under this Act.

DEPARTMENT OF HOUSING, AND URBAN DEVELOPMENT.

This new agency, established in 1965 (P.L. 89-174) has broad responsibilities in the field of water and sewage works planning and construction. Among its programs are:

Basic Water and Sewer Facilities. \$100 million set up in authorizations for Federal grant assistance to enable local governments to construct "adequate" water and sewer facilities, "promote orderly and efficient growth and development" of such communities. Grants are available (not to exceed 50 percent of the development cost) to finance specific projects—including storage, treatment, purification of water, and basic sewer facilities. "Development cost: includes cost of land, necessary site improvements and construction of facility. The Federal share of costs may be increased to as much as 90 percent: if the community has less than 10,000 population, is otherwise unable to construct the facility, does not have adequate sewers serving a substantial portion of its population, and has had (for the previous calendar year) an unemployment rate at least double the national average.

Public Facility Loans. Federal financial assistance is authorized to private non-profit corporations to finance construction of water and sewer facilities needed to serve a small municipality or rural area, where no existing public body is able to construct and operate the facilities. Loans are permitted without regard to population for communities where National Aeronautics & Space Agency installations are located.

Public Works Planning. A revolving fund is set up for advances for public works planning (\$50,000,000). Repayment is not required, if construction of the project is initiated (or has been) as the result of a grant-in-aid made from an allocation by the President under the Public Works Acceleration Act.

DEPARTMENT OF THE INTERIOR.

The Federal Water Pollution Control Act (P.L. 84-660), as amended, provides for formula grants to State and interstate authorities to meet costs of establishing and maintaining "adequate measures" for prevention and control of water pollution. In addition, grants for research, training,

investigations, and demonstrations in the field of water pollution control are available to public agencies, institutions and private agencies (matching is not required in these grants).

Other Sections of the Act contain programs started under previous laws, providing Federal grants for construction of treatment facilities to States, municipalities, and interstate or intermunicipal agencies.

The Act also authorizes grants to pay a portion of the administrative expenses of planning agencies which are developing comprehensive water quality and pollution control and abatement plans for rivers or basins.

Supplemental Federal grants are authorized for construction of sewage treatment works in order to assist in preventing pollution of a region's streams. Grants are made in accordance with provisions of the Federal Water Pollution Control Act--but without regard to provisions of that law limiting appropriations or specifying allotments to States. Programs for which supplements may be allowed include: FWPCA, Watershed Protection and Flood Prevention, Land and Water Conservation.

III - STATE LAWS, POLICIES, AND PROGRAMS

The State of Michigan participating in this Study has submitted a report which delineates the laws, policies, and programs governing its water and related land resources. This in-depth report is attached to this Appendix "N," as their contribution to the study, and is intended to serve the primary function of a study such as this, which is to compile the facts necessary for rational resource planning. It will be useful, however, to supplement their report with a summary of its contents, so that the laws, policies, and programs can be seen in perspective.

This section is divided into three main parts. Part one deals with water use and quantity control. Part two deals with water pollution and quality control. Part three deals with land use and flood control. In each part there is a brief synopsis of the pertinent common law rules, those court-made rules governing water resources which have evolved on a case-by-case basis over centuries of Anglo-American history. These rules are given prototypical treatment, which is to say they represent the common law rules followed by the courts of most Eastern states in the absence of statutory modification. Where the courts of the State of Michigan has followed a different line of thinking, this will be pointed out. Finally, it will be shown to what extent common law rules have been codified, modified, or abrograted by statute.

PART I. WATER USE AND QUANTITY CONTROL

Introductory

Private rights to use water are, at common law, derived from ownership of land. The extent of a landowner's rights to use water depends on the class to which the water in question belongs. There are three major classes of water: (1) watercourses; (2) groundwater; and (3) diffused surface water. Watercourses are further classified according to whether they are navigable or non-navigable. Private rights to use water in the Eastern states are governed by the ribarian doctrine. In addition, where watercourses are navigable, private rights to use watercourses are subject to public rights to use the waters for such purposes as fishing, swimming, and navigation. [This restriction is based on the fact that although the riparian owner owns to the middle of the lake or to the thread of the stream or river, the water and everything contained in it are held in trust for the people of the State and the riparian owner cannot destroy the public right.] Private rights to use groundwater are governed by either a "rule of absolute ownership" (the English rule) or a "rule of reasonableness" (the American rule). Private rights to use diffused surface water are governed by a "rule of absolute owner-ship" very much like the "English rule" governing groundwater use.

Watercourses

The riparian doctrine governing the use of water in rivers, lakes, streams, and ponds may be simply stated: The owner of land abutting a watercourse is entitled to have the water flow past his property in its natural condition, unaltered in quality or quantity. In Michigan there has never been strict adherence to this doctrine, for a provise known as the "reasonable use rule" has been engrafted onto it. Under this provise, a riparian owner's right to the natural flow of water is subject to a reasonable use of the water by other riparian owners along the watercourse. For the most part, what is reasonable is a question of fact, and is decided on a case-by-case basis. But over the years, certain uses have come to be regarded as being "reasonable per se" or "unreasonable per se." In such cases there is no careful weighing of factors to determine whether the use is reasonable under the particular circumstances. Rather, such cases are decided in a mechanical fashion, as a "matter of law."

The "reasonable per se uses" are sometimes called "natural uses." The most important natural use is the use of water for domestic purposes. By this is meant the use of water by a household for cooking, drinking, washing, gardening, and perhaps livestock watering. All other uses, such as the use of water for irrigation or manufacturing are deemed "artificial." That is not to say that "artificial uses" cannot be "reasonable." It is merely to say that "artificial uses" are never "reasonable per se," and that each case is judged according to its special circumstances. Because circumstances change over time, a use which is reasonable today may well be unreasonable tomorrow. The nebulous nature of this reasonableness test is aggravated by the fact that there is no forfeiture of

unexercised water rights under the riparian doctrine. That is, riparian owners who are not making full reasonable use of their water rights at the present time may begin to do so at any time in the future. This makes it difficult to ascertain the amount of water available to any riparian owner for any given use over time. Many persons believe this feature of the riparian doctrine tends to discourage capital investments, and that the doctrine is, therefore, an obstacle to optimum utilization of water resources.

Another feature of the riparian destrine which many persons believe to be undesirable is the fact the it limits the use of water to riparian lands. That is, it is " breasonable per se to use water for any purpose, no matter how worthy or beneficial, on lands which do not abut the watercourse and which do not lie within the watershed. Furthermore, the courts generally follow a so-called source of title test" in determining which tracts of land are riparian, and which are non-riparian. This test may be illustrated as follows: Blackacre Estate is bordered on the west by a stream. The eastern half of Blackacre is sold. This eastern half is no longer riparian, for it does not abut the stream. Nor, under the source of title test, can this eastern half ever regain its riparian status, not even if it is reacquired by the west half of the Blackacre Estate. The result of this test is a continual diminution of land areas where water can rightfully be utilized. (It should be noted that the opportunity for acceptance or rejection of the "source of title test" has not presented itself to Michigan courts. This lack of precedent will make it considerably easier for the courts of the State to adopt rules more compatible with the public interest.)

It has been noted that the public acquires "private rights" to use water through the ownership of land. Where the public, either directly or through a governmental body, owns land abutting a watercourse, its use of those waters is governed by the same rule of reasonableness which governs use by private riparian owners. This is particularly important in its repercussions on municipal water use, for it means, in theory, that cities and towns have no greater claim to water supplies than do individual riparian owners. Actually, as urbanization continues it is likely that courts will be inclined to view municipal uses as "reasonable," and conversely, to view as "unreasonable" any use which interferes with municipal water needs. It can be said, in partial justification of such an approach, that municipal use is largely "domestic" and that most water is returned to streams after treatment. At the same time, however, it must be realized that little land within most cities has riparian status, if riparian land can be defined as a tract of land which abuts a watercourse. Cities are composed of hundreds of tracts of land, and only a scant portion of the tracts actually abut a watercourse. The few cases involving municipal water use seems to indicate a judicial willingness to overlook the rule that non-riparian water use is "unreasonable per se." When courts do address the question in a forthright manner there is great likelihood that they will decide to treat entire cities as though they were a single tract of land, or possible to discard altogether the rule that non-riparian water use is "unreasonable per se.

Separate and apart from its riparian rights, the public has certain rights to use watercourses which are navigable. Where a watercourse is "navigable" the public has rights to go into or upon the water thereof, as for swimming, canoeing, boating, iceskating, and transporting commerce.

At common law a watercourse is navigable if it is capable of floating a substantial commercial traffic in its natural condition, or with relatively slight improvement of its channel. In Hichigan streams are also navigable which are capable of floating logs. The State Supreme Court has said that such streams are available for use by the public for boating and fishing. The log test has even been applied in a limited sense to inland lakes. On the basis of the cases so far decided, it may be concluded that inland navigable lakes which are accessible to the public may be used for boating and fishing if they meet the log test or as it is sometimes referred to, the "floatation" test. Thus it can be said that in Michigan the public can use waters meeting the floatation test for boating, swimming, fishing and other recreation.

Groundwater

As stated earlier, there are two doctrines which govern the use of groundwater at common law. The older of the two is the so-called "English rule," also known as the "rule of absolute ownership." The latter appellation is misleading because it is not true that a landowner owns all groundwater beneath his land, in the sense that he has an exclusive right of possession. More accurately, a landowner merely has an absolute and unqualified right to use all groundwater beneath his land. The importance of this distinction is readily seen where one landowner pumps water from the ground at such a rate as to deplete the water supply of other owners whose lands lie over the same groundwater basin. These other owners would have the right of recovery if they truly owned the water beneath their lands. But it is the essential feature of the "English rule" that groundwater can be used with impunity even to the detriment of other landowners.

The second doctrine governing groundwater use is the so-called "American rule"; though not established firmly, it is followed in the State of Michigan. Essentially, the "American rule" is the same as the "English rule," except that it is tempered by a "rule of reasonableness." That is, in the states following the "American rule" a landowner has an absolute right to use the groundwater beneath his land so long as the use is "reasonable." (The "rule of reasonableness" here is slightly different from the "reasonableness rule" discussed earlier in connection with the riparian doctrine. Under the "American rule" the courts look only at the single landowner and ask, "Is it reasonable for him to use the groundwater on his land as he does?" Under the riparian doctrine, however, the courts look not only to the one riparian owner but also to everyone affected by his use and ask, "Does this persons use of the watercourse interfere unreasonably with the rights of others to use the watercourse?")

As is the case under the riparian doctrine, non-exercise of rights to use groundwater does not result in a forfeiture of those rights. This means that the "English rule" and the "American rule" afford no assurances to a landowner that any specific quantity of groundwater will be available to him over time, for other landowners may subsequently increase their withdrawal and thereby deplete basin supplies.

Another respect in which the rules governing groundwater use are similar to the riparian doctrine is the state rule limiting groundwater use to the land from which the groundwater is drawn, or at least to lands overlying the groundwater basin.

Diffused Surface Water

Michigan defines diffused water as "waters on the surface of the ground, usually created by rain or snow, which are of a casual or vagrant character following no definite course and having no substantial or permanent existence." How the courts of the State would treat diffused surface water is largely a matter of conjecture. Diffused surface water has historically been regarded more as a nuisance than a valuable source of water, so most of the case law has dealt with the entirely different question of what can lawfully be done to protect or drain lands of unwanted surface water. Those few cases which have involved the issue of water use seems to indicate that the use of diffused surface water is to be approached in much the same manner as groundwater use under the "Civil Law Rule." This is true, at least, with respect to diffused surface water which is present as a direct result of rain or snow. The use of diffused surface water which is present as a result of stream or lake overflow may instead be subject to the riparian doctrine and treated as part of the watercourse.

Common Law and the Public Welfare

The foregoing discussions have stressed three aspects of the common law which militate against optimum utilization of water resources for the public welfare: (1) Water can be used only on lands which happen to touch upon or overlie the water's source; (2) Because "reasonableness" is a nebulous concept and because common law water rights are not forfeited by non-use, the common law affords no assurance to water users that a given quantity of water will be available to them over time; (3) Public rights inhere in those waters which are capable of supporting commercial activity including floatation of logs, and this determines the resources available to the public for recreational, aesthetic, and other needs although the modern tendency is to regard all watercourses capable of floating any type of a boat as being navigable.

To some extent, the common law itself affords ways to circumvent these difficulties. With respect to non-riparian use, courts will not enjoin or penalize such use where it does not cause actual damage to riparian owners. With respect to the uncertainty engendered by

common law rules, water rights can be "firmed up" to some degree by buying off the water rights of other landowners or through prescription, that is, through open and netorious use of waters to the detriment of other landowners for the period of fifteen years. With respect to public rights in this State, the commercial test of navigability has been supplemented by the floatation test which has opened to the public use many streams in the State. The public also has the power to acquire further rights through the condemnation of riparian lands, or simply through the condemnation of water rights.

The common law has always evinced a capacity to grow and change with the needs of society. But the process of juridical evolution is slow and uncertain and Michigan has turned to the faster process of legislation to effect needed changes.

Statutory Modification

The State of Michigan has to some degree enacted statutory modifications for clarification of common law rules governing water use. Statutes that require approval by administrative agency before water can be withdrawn from whatever water sources are now enacted. Another area that the State has exhibited statutory interest is in the enlargement and protection of public rights to use the water resources.

Constitutionality of Water Use Legislation

The power of the states to revamp their laws is great, but it is not unlimited. Each state government is prohibited, by both the United States Constitution and its own state constitution, from doing certain things in derogation of individual rights. The most important issue to be raised in connection with water use legislation is whether such legislation amounts to a taking of private property without due process of law or whether it is instead a valid exercise of the state police power in the furtherance of public health and welfare. There is no clearly defined line between statutes which are confiscatory and statutes which are merely regulatory. Generally speaking, the courts will uphold any statute which is designed to meet a legitimate public need in a rational fashion.

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PART 2. WATER POLLUTION

Introductory

Generally speaking, the state has three sets of water pollution laws. The first is the common law, by which individuals are given certain rights to relief where they are specially damaged by water pollution. The second is the law of public nuisance, as embodied in case law or statutory law, and by which public peace officers are empowered to seek relief from pollution on behalf of the citizenry as a whole. And the third is legislation which sets up special administrative agencies with broad powers to implement a comprehensive program of water quality control.

Common Law Rights of Private Individuals

The individual who is specially aggrieved by pollution can seek two types of relief from the courts, in a suit against the offending party of parties. One is a money judgment and the other is abatement of the pollution. Such a suit could be based on one or more of three legal theories: (1) Where pollutants are actually deposited upon his lands, the suit can be for trespass; (2) Where the pollution interferes with his right to use and enjoy his lands, as by emission of offensive odors, the suit can be for private nuisance; (3) Where the pollution interferes with his rights to use and enjoy the water itself, the suit can likewise be for private nuisance, but the matter is greatly complicated by the fact that the riparian doctrine must be superimposed on the question of whether a private nuisance exists. For example, the use interfered with might be one which is non-riparian, or the defendant's use might be one which carries a priority over the plaintiff's use. While such factors would not necessarily be determinative of the suit's outcome, they would certainly carry considerable weight in deciding whether the defendant's conduct unreasonably interferes with the plaintiff's use and enjoyment of his property. (The central issue in every private nuisance suit is whether the defendant's conduct unreasonably interferes with the plaintiff's use and enjoyment of his property.)

Assuming that the defendant's conduct in polluting a waterway can be shown to be unreasonable, there are still a number of obstacles which may defeat the plaintiff's efforts to attain judicial relief, or which would be so imposing as to discourage him from bringing suit in the first place. The most important obstacles arise from the fact that pollution is seldom caused by one party only. Ordinarily, there will be a number of parties discharging pollutants into the waters. For the most part, the courts have insisted upon treating each discharge as a separate offense. Such an approach has several consequences. It, first of all, makes if difficult to join all the defendants in one suit, for even under the liberal joinder provisions which many states have enacted in recent years, courts are still inclined to take the position that each defendant merits a separate trial. Not only is multiple litigation very expensive but

it makes it difficult to see the situation in its entirety. Moreover, the plaintiff who seeks a money judgment has, under such an approach, the virtually impossible task of proving the portion of his total damage for which each defendant is responsible. If he cannot show this, then he gets nothing, for the courts will not risk having one defendant pay more than his share of the damage. Some courts have shown a willingness to assist the plaintiff. They do this by saying that each defendant who pollutes a waterway with knowledge that others are polluting the same waterway is acting in concert with those others. Hence, the defendants are all jointly liable, and each one becomes responsible for the full damage suffered by the plaintiff. This obviates the necessity of apportining damages.

In most cases the plaintiff will petition the court for an injunction or decree of abatement against further pollution. Although there is no need to show the proportionate responsibility of each polluter in a suit for abatement as there is in a suit for compensatory damages, such suits offer impressive obstacles of their own. The plaintiff will be barred from relief where he has waited an inordinate amount of time to bring suit. He may also have to show, particularly where lake pollution is involved, that he himself is not guilty of contributing to the pollution of the waters. But most important of all, the plaintiff must convince the court that the hardship of abatement upon the defendant is not greater than the hardship of pollution upon himself. All of this adds up to the fact that the state cannot rely on private litigation to maintain water quality.

Public Nuisance

Public regulation of water quality had its origin in the common law doctrine of "public nuisance." A public nuisance exists where a person uses his property in such a way as to interfere with the health, safety, or welfare of the public. The common law has been buttressed in the State by statutes which specifically declare that water pollution is a public nuisance subject to abatement and penalties. Many of them list the things which are not to be thrown or discharged into the waters of the State, and these lists are generally not as exhaustive as they might be.

Administrative Regulation of Water Pollution

Though the agency has not always been called the "Water Resources Commission," statutory regulation of the water resources of the State dates back at least as far as 1929. Since that time there have been few challenges of the statute or of the administrative regulations promulgated pursuant to it.

Bearing this in mind it will be useful to analyze the pollution statutes of the State with respect to certain key points: (1) agency composition; (2) jurisdiction; (3) definition of pollution; (4) enforcement; (5) preventive pollution control, and (6) incentives.

Agency Composition

The Water Resources Commission is composed of seven members, consisting of the Director of Natural Resources, the Commissioner of Health, the Highway Commissioner, the Director of Agriculture, three citizens appointed by the Governor with the consent of the Senate, these being one representative each from industrial management, municipalities, and conservation groups.

The Commission meets at least once a month and reports to the Governor and legislature at least once a year.

Jurisdiction

By and large the jurisdict' of the Water Resources Commission is broad. That is, the Commiss of a suthority to control pollution in all State waters, both above to below ground. Some of the statutes, however, provide for certain exemptions from their coverage. But the Commission does have control over both private persons and private industry concerning pollutant discharge into a water course.

Definition of Pollution

Since the heart of every pollution control statute is its definition of pollution, the Water Resources Commission has established specific water quality standards for all surface waters in Michigan.

Enforcement

When the Water Resources Commission believes that a party is polluting or is about to pollute waters of the State, the Commission will send a notice of this determination to the party along with a proposed course of action to correct the problem. The offending party may ask for a hearing before the Commission if there is a question about the validity of the findings or the reasonableness of the proposed correction.

An attempt is made to settle disputes without resorting to litigation, but should this not be possible, the Commission is authorized to bring criminal action to enforce its determination.

Preventive Pollution Control

A truly effective program of water quality regulation should include measures to prevent, as well as to abate, water pollution. The State of Michigan has enacted a permit system, making it unlawful to install, modify, or operate a disposal system or a treatment facility without a permit from the State Health Commissioner. Also, any person requiring a new or substantial increase of the use of the waters of the State for sewage or waste disposal purposes is required to have its plan for such use approved by the Mater Resources Commission.

Incentives

One of the main problems of water quality regulation is the high cost of installing adequate treatment facilities. Michigan provides grants to governing units for treatment facilities and tax exemptions from both sales and personal property taxes, for those treatment facilities that receive a tax exempt certificate from the State Tax Commission.

PART 3. LAND USE AND FLOOD CONTROL

Introductory

The common law's distinction between watercourses and diffused surface water is relevant not only to water use but to drainage and flood control as well. The right of a landowner to protect his lands from, or to rid his lands of, diffused surface water is governed by two different doctrines in the State of Michigan. These are the "civil law rule," and the "rule of reasonableness." The right of a landowner to protect his lands from the overflow of waterways is governed by the doctrines of private and public nuisance.

Diffused Surface Water

Diffused surface water (waters on the surface of the ground, usually created by rain or snow which are casual or of vagrant character), flows in accordance with the law of gravity, from areas of high ground to areas of low ground. Most of the cases at common law have involved the issue of to what extent a person can interfere with the natural flow of water in order to protect his lands from inundation. The main doctrine which governs this point is the "civil law rule."

"The civil law rule," attaches great significance to natural drainage. Under it, a landowner cannot alter the manner of flow of surface water onto the lands of another against the objections of that other. Nor can a lowland owner prevent the natural drainage of water onto his lands from those of his upland neighbor. Finally, the Michigan "rule of reasonableness" is just what the name suggests. Each case is judged according to its own facts. This rule affords flexibility, but at the price of clarity.

Watercourses

It is, according to the doctrine of private nuisance, unlawful for any person to maintain an artificial condition upon his land which interferes unreasonably with the rights of other landowners to use and enjoy their property. And under the doctrine of public nuisance, it is unlawful for a person to maintain a condition upon his land which endangers the health, safety, or welfare of the general public. As these doctrines are applied to flooding, it is unlawful to maintain an artificial condition upon one's land which will obstruct the flow of water in a floodway and thereby increase the velocity and height of the flood to the detriment of other landowners or of the public. An artificial condition is any condition brought about by the acts of man, and includes the presence of flood control structures such as levees and embankments. It is not unlawful per se to maintain an encroachment upon a floodway. (Each situation is

judged according to its own circumstances, and if a particular encroachment will not have harmful effects on water flowage its use will not be prohibited.) As a general rule, it is deemed reasonable and, therefore, lawful, for a landowner to maintain structures designed to protect his lands from extraordinary floods, but not from ordinary (seasonal) floods.

STATUTORY ENCROACHMENT LAWS

Michigan's floodway encroachment law is administered by that State's Water Resources Commission. (This is the same agency which administers water use laws in the State.) There are five principal features to be noted about Michigan's encroachment laws: (1) They authorize the administering agency to establish flood plains for all rivers and streams in the State, (2) The Commission has control "over the alterations of natural or present watercourses of all rivers and streams in the State to assure that the channels and the portions of the flood plains that are the floodways are not inhabited and are kept free and clear of interference or obstruction which will cause any undue restriction of the capacity of the floodway;" (3) They require all persons who desire to erect, use, or maintain any possible encroachment in a floodway to obtain a permit from the administering agency; (4) They authorize the administering agency to bring court proceedings to enjoin the making or erecting of any structure, deposit, excavation, or other possible encroachment without a permit; (5) They authorized the administering agency to remove or eliminate unlawful encroachments through abatement proceedings.

The term "floodway" is defined as "the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge an intermediate regional flood." "Intermediate regional flood" means a flood which has a 1% chance of occurring or being exceeded in any given year.

Flood Plain Regulation

The encroachment laws just discussed are a form of flood plain regulation, but their purpose is not so much to keep man and his property out of harm's way as it is to reduce flood severity by removing obstructions to flood flow. Other types of flood plain regulations more clearly embrace the notion that "the river owns the flood plain" and that it is foolish to place homes, schools, and other structures where they run substantial risk of being destroyed by flood. Among these other types are zoning laws, platting laws, building codes, and laws which require disclosure of flood risks in sales of flood plain property.

FLOOD PLAIN ZONING

The State of Michigan has zoning statutes which authorized local levels of government to regulate land use in the interests of public health, safety, and welfare. One might well argue that it is in the interests of public safety and welfare to prohibit certain land uses in areas likely to be inundated by floods and that these general zoning statutes are, therefore, broad enough to permit flood plain zoning. The State of Michigan has also enacted laws requiring subdivision developers to submit their proposed subdivision plans alongside of lakes and streams for approval prior to development. (See Platting Laws.) Zoning laws, when acted, must be reasonable. They should be based on sound hydrological data, so that demarcated zones are rationally related to flood frequency and severity. They should not prohibit so many types of land use in a flood zone as to destroy the market value of zoned landowners. To exempt, for example, municipally owned buildings from the coverage of a zoning law is to make possible the argument that the law violates the "equal protection" clauses of the State and U.S. Constitutions.

PLATTING LAWS

Where a person owns a large area of undeveloped land and wishes to subdivide and develop the land for sale he must first file a map or plat with the local governmental unit to which the land is to be annexed. This map must show the location of all proposed streets, roads, sewers, and public utility lines. Upon approval of the map by the concerned authorities, the local governmental unit acquires either an easement or full title to all lands where the streets, roads and so forth are located. Michigan has a law requiring developers to submit plat plans to the Water Resources Commission for review and determination of the flood plains. Upon completion of review and establishment of flood plain limits the preliminary plat may be approved and minimum building requirements specified for residential buildings within and adjacent to the flood plain.

BUILDING CODES

It is possible to "flood proof" a building, either by raising all rooms above expected flood levels or by reinforcing the building against strong flood currents. Building codes would be most effective where used in conjunction with flood plain zoning. Indeed, there would be constitutional objections to a building code which required flood proofing of buildings not located in a zone of danger. To date, Michigan does not have a law requiring local governmental units to adopt building regulations for purposes of flood protection.

DISCLOSURE LAWS

The law, by and large, applies the maxim of caveat emptor -let the buyer beware -- to all sales of real estate. A seller is
under no duty to disclose that his land lies in a flood plain, if
such be the case. Even where a buyer expressly asks the seller
whether the land lies in a flood plain and the seller untruthfully
says it does not, the courts will give no remedy to the buyer once
the deed is conveyed to him, unless there is an express statement
in the deed itself that the property does not lie in a flood plain.
This law was changed by statute, so as to require the disclosure
of all pertinent flood plain information on the plat for the buyer.
Where the seller fails to disclose the truth, he could then be
held liable for all flood damage suffered by the buyer, or the sale
could be made voidable at the option of the buyer.

Other Flood Control Laws

Mention should be made of three other types of flood related laws. The first type is legislation enabling local groups of property owners to organize special purpose districts to effect soil conservation practices over a wide area, generally in conjunction with the United States Department of Agriculture's Soil Conservation Service. The second type is legislation enabling local groups of property owners to organize special purpose districts to erect and maintain flood control works, such as levees, dams, and embankments. And the third type is legislation authorizing a state agency to undertake such flood control projects on a statewide basis.

IV - WATER RESOURCE MANAGEMENT AT THE LOCAL LEVEL

The dispersal of authority over water resources at the local level is too complex for thorough treatment in this study. However, mention should be made of the salient problems and problem-solving trends which are encountered at this important level of government.

Local agencies are created by the states, and their powers are generally enumerated in their charters and the legislative acts creating them. Serious jurisdiction problems arise from the fact that these local agencies have sprung forth in numbers too great, with purposes too limited, and with powers overlapping those of other local agencies in the same region. Municipalities, sanitary districts, drainage districts, and soil conservation districts -- to name a few -- might all be found trying to function in the same section of a state. None alone can do an adequate job of overall local water regulation, and together they often operate at cross-purposes, preventing effective use of even the limited powers they have. A ling in concert, with a spirit of cooperation, these jurisdictional ems could be minimized. But it is perhaps unrealistic to place to a premium on cooperation. Some states have taken measures to amel these jurisdictional problems by passing legislation which enables are establishment of broad-power water conservancy districts to provide centralized overall guidance in the management of water resources at the local level.

In addition to jurisdictional problems, local level agencies also suffer from an inability to finance themselves. It is generally the case that the legislation creating these local agencies limits the amount of funds they can raise to a small percentage of the value of property within their boundaries. Some states have taken measures to raise these percentage limits. Other states have gone further and begun to equip local agencies with the power to levey various excise taxes. Certainly, if local government of water resources is to achieve viability, action will have to be taken to meet the jurisdictional and financial problems which plague local agencies.

V - JURISDICTIONAL PROBLEMS

Introduction.

This section contains the constitutional provisions, the most important statutory enactments, and a brief discussion of common law rights in the waters of Michigan as prepared by Nicholas V. Olds, Assistant Attorney General of the State of Michigan.

Federal Supremacy.

The power and authority of the Government of the United States to control and regulate the use of the waters of the nation are derived from the commerce clause of the United States Constitution.

"The Congress shall have power * * * (3) To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;" (U.S. Const., Art I, 8)

Beginning with the case of <u>United States v. Chandler Dunbar Company</u>, 229 U.S. 58, growing out of construction by the Federal Government of the Soo Locks under the Rivers and Harbors Act of March 3, 1909, and ending in the very late case of <u>United States v. Appalachian Power Company</u>, 311 U.S. 377, the supremacy of the United States of the waters of the nation when exercised became firmly established.

In the <u>Appalachian case</u>, the court said in discussing the relative rights between States and the United States Government with respect to water:

"The states possess control of the waters within their borders, 'subject to the acknowledged jurisdiction of the United States under the Constitution in regard to commerce and the navigation of the waters of rivers.' St. Anthony Falls Water Power Co. v. Water Commissioners, 168 U.S. 349, 366. It is this subordinate local control that, even as to navigable rivers, creates between the respective governments a contrariety of interests relating to the regulation and protection of waters through licenses, the operation of structures and the acquisition of projects at the end of the license term.

"In our view it cannot properly be said that the constitutional power of the United States over its waters is limited to control for navigation. By navigation respondent means no more than operation of boats and improvement of the waterway itself. In truth the authority of the United States is in the regulation of commerce on its waters. Navigability, in the sense just stated, is but a part of this whole. Flood protection, watershed development, recovery of cost of improvements through utilization of power are likewise parts of commerce control.

"The Federal Government has dominion over the water power inherent in the flowing stream. It is liable to no one for its use or non-use.

"So long as the things done within the states by the United States are valid under that Power (Commerce Clause) there can be no interference with the sovereignty of the state. It is the non-delegated power which under the Tenth Amendment remains in the state or the people." Consequently, so long as the use and authority asserted by the United States under authorization of Congress are in some way related to "commerce," the exercise of such authority is supreme and in fact superior to that of the States.

Also, it should be noted that so long as Federal works confine themselves within the natural boundaries of a stream or other body of water, there is no compensation due to the riparian owner. For, as was said in the Chandier-Dunbar case:

> "The broad claim that the water power of the stream is appurtenant to the bank owned by it, and not dependent upon ownership of the soil over which the river flows has been advanced. But whether this private right to the use of the flow of the water and flow of the stream be based upon the qualified title which the company had to the bed of the river over which it flows or the ownership of land bordering upon the river, is of no prime importance. In neither event can there be said to arise any ownership of the river. Ownership of a private stream wholly upon the lands of an individual is conceivable; but that the running water in a great navigable stream is capable of private ownership is inconceivable."

While recognizing the supremacy of the Federal government over water when Congress acts with respect to "commerce," yet the States do have certain rights and responsibilities with respect to the waters lying in their respective boundaries. These rights and responsibilities have been expressed in State constitutions, statutory enactments and court decisions. The rest of this statement will concern itself with these phases of the law as it exists in Michigan.

Constitution

The Michigan Constitution of 1963, to become effective on January 1, 1964, contains two provisions directly concerning the water of the State of Michigan:

1. Section 52 of Article IV is a new Constitutional pronouncement. It provides:

"The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction."

2. Section 12 of Article VII is a revision of Section 14, Article VIII of the Constitution of 1908. It provides:

"A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein."

The clause providing that "a navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county" had its genesis in the Michigan Constitution of 1850, Art. 18, Sec. 4., which was understood as adopted in furtherance of the policy of the Ordinance of 1787 which provided that "the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free." Shepard v.Gates, 50 Mich 495, 497; People v. Grand Rapids-Muskegon Power Co., 164 Mich 121.

The Constitution also contains the following pertinent provisions:

Article III pertaining to the General Government provides:

Inter-governmental agreements.

"Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations, or conditions on such service as it may deem appropriate."

Internal improvements.

"Section 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements p ovided by law."

Laws remain in effect.

"Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed."

Article IV pertaining to the Legislative Branch of the Government provides:

Ports and port districts.

"Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith."

Article VII pertaining to Local Government particularly cities and villages provides:

Public service facilities; power to own or operate.

"Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

"Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law."

Metropolitan areas.

"Sec. 27. Notwithstanding any other provisions of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities shall be designed to perform multipurpose functions rather than a single function." Article VII also contains the following General Provision on intrastate cooperation:

> "Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

"Any other provision of this constitution notwithstanding an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service."

Article X pertaining to "Property" provides:

Eminent domain.

"Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record."

State lands.

"Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas, and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease, or other disposition of such lands." "The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature."

STATUTES

County Board of Supervisors

Dams and Obstructions From Booms, Logs or Rafts.

C.L. 1948 46.21 (MSA 1961 Rev Vol 5.344)

County boards of supervisors are empowered to "permit or prohibit the construction of any dam or bridge over or across any navigable stream." They are also empowered to provide for removal of obstructions in such streams arising from booms, collecting of logs or rafts by individuals.

C.L. 1948 46.22, as amended by Act 36, P.A. 1951 (MSA 1961 Rev Vol 5.345)

Any person or corporation wishing to construct a dam across a navigable stream must file a petition for leave to do so with the county board of supervisors setting forth those matters specified in the statute.

Prior to hearing by the board, provision is made for publication of the application and service of notice to all owners of land affected. At the hearing any person shall be heard in favor of or against the petition. The board is empowered to grant or refuse the petition. The Act provides for replacement of a permitted dam. It also requires that a copy of petitions to dam be sent to the Conservation Commission, with notice of date and place of hearing the same.

Dams.

Act 184, P.A. 1963 (Eff. Sept. 6, 1963), C.L. 1948 281.131 (MSA 11.421)

No person shall construct or permit construction of any dam on land owned by him in any stream or river impounding more than 5 acres without first obtaining from the Department of Conservation a permit approving plans for such construction. The Act does not apply to public utilities subject to regulation by the Michigan Public Service Commission.

The Act provides that nothing contained therein shall abridge the rights of the boards of supervisors of the several counties to approve the construction of any dam as is provided in C.L. 1948, 46.21 and 46.22 and the Inland Lake Level Act, Act 146, P.A. 1961, as amended, or under such other restrictions as any board of supervisors may lawfully impose.

Bridges Over Navigable Streams.

C.L. 1948 254.22 (MSA 1958 Rev Vol 9.1192)

Bridges over any navigable stream shall be so constructed and maintained as to afford adequate means for passage of usual crafts plying thereon, sawlogs, floating timber and rafts through the same.

Floating Logs and Timber in the Streams.

C.L. 1948 426.51 (MSA Rev Vol 18.231 et seq)

This act provides for floating logs and timber in the streams of this state.

It is made a misdemeanor under Section 5 to wilfully dam up any rivers, creeks or streams or obstruct the navigation thereof, except for milling or the use of machinery, with intent to hinder or obstruct any person in the use thereof for floating logs and uses provided in this act.

Under Section 7, it is declared unlawful for persons having logs or timber "in any stream navigable for licensed watercraft" to boom such logs or timber along the shore as provided in the act, if sufficient channel is left clear to allow navigation by craft or rafts usually navigating such streams."

Alteration of Watercourses.

C.L. 1948 254.25 (MSA 1958 Rev Vol 9.1195)

This section provides:

"Hereafter, no person, firm, corporation, or municipality shall artifically alter the stage of water or widen or deepend the channel of any watercourse, except drains established by public authority, without first securing a written permit therefor from the commissioner or commissioners having jurisdiction over all the bridges and culverts on or over said watercourse, or the portion thereof affected by such proposed change."

Public Utility Structures Under Waters in this State.

C.L. 1948 247.183 (MSA 1958 Rev Vol 9.263)

Telegraph, telephone, power and other public utility companies and municipalities are authorized to construct and maintain telegraph, telephone or power lines, pipe lines, wire, cables, poles, conduits, sewers and like structures across or under any of the waters in this state upon conditions set forth in this section.

Department of Conservation

Public Shooting and Hunting Grounds Bordering Grand River and Others.

> Act 171, P.A. 1899, as amended, being C.L. 1948 317.291, et seq. (MSA 1958 Rev. Vol. 13.1121-13.1127)

Certain swamp and submerged lands adjoining Lake Michigan and others of the Great Lakes, the bayous adjointing them and along the shores of the Kalamazoo River, Grand River, and Muskegon River which belong to the State of Michigan, are set apart and dedicated by legislative act for a public shooting and hunting ground. The waters in this park are free for for all purposes of navigation. The Act provides preservation of right of riparian owners to dockage and wharfage. It preserves dock or harbor lines or regulations of the States or any municipality. The board of supervisors of each county shall have the care and control of that part of the park within its boundaries and they are given discretionary power to allow cutting or destruction of rushes and submarine vegetation.

Protection of Natural Resources.

Section 3 of Act 17, P.A. 1921, as amended, being C.L. 1948 299.3 (MSA 1958 Rev. Vol. 13.3)

This act makes it the duty of the conservation department to protect and conserve the natural resources of the State of Michigan, to provide and develop facilities for outdoor recreation, to prevent and guard against the pollution of lakes and streams within the State, and to enforce all laws provided for that purpose with all authority granted by law, and to foster and encourage the propagation of game and fish.

Public Right to Fish in Navigable or Meandered Waters.

Act 121, P.A. 1891, being C.L. 1948 307.41 (MSA 1958 Rev. Vol 13.1681)

Where fish are propagated or planted at the expense of the State of Michigan or the United States, in any navigable or meandered waters of this State, the people have the right to fish with hook and line during such seasons and in such waters as are not otherwise prohibited by law.

Obstructing Free Passage of Fish.

Act 123, P.A. 1929, as amended, being C.L. 1948 307.1 et seq. (MSA 1958 Rev Vol 13.1631-13.1657)

Authority is conferred upon and it is made the duty of the Conservation Commission to provide for the erection and maintenance of proper means for free passage of fish through and over dams crossing rivers, streams or creeks. Section 7 of the Act makes it unlawful to obstruct the channel of a river, stream or creek by net, wire screen, or other material, but authorizes the Director of Conservation to so do when deemed to be in the public interest.

The Michigan Sportsmen Fishing Law.

C.L. 1948 302.2 (MSA 1948 302.2 (MSA 1948 Rev Vol 13.1603)

Placing of any obstruction or device in or across any race, stream, or river which obstructs the free passage of fish up and down the same "except as otherwise provided by law" is unlawful. A dam which changes the natural elevation of water level more than two feet is within the purview of the Act.

C.L. 1948 302.3 (MSA 1958 Rev Vol 13.1604)

That the destruction of any artificial dam or barrier placed in a trout stream under the direction of the Director of Conservation is prohibited.

Sportsmen Fishing Law - Fish Habitat.

C.L. 1948 303.2, as amended by Act 164, P.A. 1959 (MSA 1961 Cum Supp 13.1610)

The use of power boats or other power-driven device over spawning bed in a lake, river, pond, or other body of water is unlawful.

C.L. 1948 302.5a (MSA 1958 Rev Vol 13.1607)

Fishing is unlawful in any lake, stream or pond, or portion the reof used by the State or Federal Government for propagation of fish except as opened to fishing by Director of Conservation.

Inland Lake Level Act of 1961

Act 146, P.A. 1961, as amended by Act 203, P.A. 1962, (MSA 1961 Cum Supp 11.300(1) et seq.)

This act provides for the determination and maintenance of the normal height and level as defined in the act of the waters in inland lakes of the state for the protection of the public health, safety and welfare and the conservation of the natural resources of the State. The Act authorizes the building and maintenance of dams and embankments to accomplish the purposes of the act.

Section 13 of the Act provides:

"Nothing herein contained shall be construed to alter, limit, abridge or amend the provisions of law applicable to the location, construction and maintenance of dams in navigable streams or provide for the determination, establishment or maintenance of the level of waters impounded by such dams."

Under the conditions set forth in the Act, the statutory procedure leading to fixing of the lake level is invoked by the Conservation Department or the Board of Supervisors of the county in which the whole or any part of the inland lake is situated.

Inland Lake Improvement Act of 1961

Act 140, P.A. 1961 (MSA 1961 Cum Supp 11.401 et seq.)

This act provides for the improvement of certain inland lakes and adjacent swamp land by dredging, ditching, digging or other related work and removal of undesirable material. Approval of the Director of Conservation to the project is necessary.

Water Resources Commission

Act 245, P.A. 1929, as amended, being C.L. 1948 323.1 et seq., (MSA 1961 Rev Vol 3.521 et seq.)

This Act creates a water resources commission to protect and conserve the water resources of the State, to have control over the pollution of surface and underground waters of the State and the Great Lakes affected by waste disposal.

The Commission is empowered to make surveys, studies and investigations of the uses of both surface and underground waters. The Commission shall assist in an advisory capacity any flood control district authorized by the Michigan legislature and is required to "appear and present evidence, reports and other testimony during the hearings involving the creation of flood control districts. It is also the duty of the Commission to advise and consult with the legislature on the obligation of the State to participate in the costs of construction and maintenance as provided for the official plans of any flood control district or intercounty drainage district. (Sec. 2)

Section 2a (MSA 3.522(1)) provides:

"The water resources commission is hereby designated the state agency to cooperate and negotiate with other governments, governmental units and agencies thereof in matters concerning the water resources of the state, including but not limited to flood control and beach erosion control. The commission is further authorized to take such steps as may be necessary to take advantage of any act of congress heretofore or hereafter enacted which maybe of assistance in carrying out the purposes of this act.

"The commission shall report to the governor and to the legislature at least once in each year any plans or projects being carried on or considered and shall include in such report requests for any legislation needed to carry out any proposed projects or agreements, made necessary thereby, together with any requests for appropriations."

Under provisions of Section 5, the Commission is required to establish such pollution standards for lakes, rivers, streams, and other waters of the State in relation to public use to which they are or may be put as it shall deem necessary. It is given authority to determine for record what volume of water actually flows in all streams, and the high and low water marks of lakes and other waters of the state affected by waste disposal. It is authorized to make regulations and orders restricting the polluting content of any waste material or polluting substance discharged into any lake, river, stream or other waters of the State, and to take appropriate steps to prevent any pollution which it deems to be unreasonable and against public interests in view of the existing conditions in any lake, river, stream or other waters of the State.

Section 6 of the Act makes it unlawful for any person to discharge into any of the lakes, rivers, streams or other waters of this State any substance which is injurious to the public health or to the conducting of any industrial enterprise or other lawful occupation; or whereby any fish or migratory bird life or any wild animal or aquatic life may be destroyed or the growth or propagation thereof be prevented or injuriously affected as a consequence of said pollution.

Act 13, P.A. 1956 (Ex. Sess.) (MSA 1961 Rev Vol 3.533(1))

This Act authorizes the water resources commission to comply with the provisions of P.L. 660 of the 84th Congress, known as the Water Pollution Control Act Amendments of 1956.

Act 58, P.A. 1959 (C.L. 1948 323.221 et seq.; MSA 1961 Rev Vol 3.533(11) et seq.)

This Act authorizes the water resources commission to supervise the chemical treatment of certain waters of the State for the control of swimmers' itch and provides for the lawful use of copper and other chemicals for the purpose.

Waterways Commission

Act 320, P.A. 1947, as amended (C.L. 1948 281.501, as amended, et seq.; MSA 1961 Rev. Vol 3.534(1) et seq.)

This Act creates the Michigan State Waterways Commission.

It defines the following terms, among others:

"Waterway" to mean "any body of water of whatever size whether of natural or artificial origin."

"Navigable water" to mean any waterway now navigable in fact by vessels, or capable of being made navigable by vessels through artificial improvements, and shall include the structures and facilities created to facilitate navigation.

The Commission is vested with the powers and duties set forth in Section 4 of the Act among which are to acquire, construct and maintain harbors, channels, and facilities for vessels in the navigable waters in the State; to acquire areas on shore for disposal of the materials from dredging and to represent the State of Michigan and the Governor of Michigan in relationships with the Chief of Engineers, United States Army, for the purposes set forth in the Act.

Counties, townships, cities and villages in which are situated inland waterways connected with the waters of the Great Lakes or within which channels to nearby inland lakes and streams may be constructed or opened for navigation and shelter of light draft vessels are authorized by majority vote of their legislative bodies to enter into contracts and agreements with the Commission as provided in Section 5 of the Act.

Provision is also made relative to meeting conditions for U. S. participation in projects authorized by the Act and to provide for state participation in certain federal programs.

State Health Commissioner

C.L. 1948 325.201 et seq. (MSA 1956 Rev Vol 14.411 et seq)

This Act provides for the supervision and control by the State Health Commissioner over waterwork systems and sewerage systems used for household or drinking purposes. "Waterworks system" is defined in the Act to include wells, intakes and cribs, treatment plants and reservoirs. The State Health Commissioner is required to exercise due care to see that the sewage systems are properly planned, constructed and operated so as to prevent unlawful pollution of the streams, lakes and other water resources of the State.

Townships

Wharves, piers and docks.

Act 286, P.A. 1923, being C.L. 1948 41,481 (MSA 1958 Rev Vol 5.2391)

This Act authorizes townships abutting upon any navigable waters to acquire, construct and maintain wharves, piers, docks and landing places for public use.

Bathing Beach.

Act 157, P.A. 1905, as amended by Act 308, P.A. 1941, being C.L. 1948 41.421 (MSA 1958 Rev Vol 5.2441)

This Act authorizes a township to acquire by gift or devise certain property for a bathing beach or other named purposes.

Township and Village Public Improvement Act.

Act 116, P.A. 1923, as last amended by Act 33, P.A. 1961, being C.L. 1948 41.411 et seg., as amended (MSA 1961 Cum Supp 5.2411, 5.2415 and MSA 1958 Rev Vol 5.2412 et seg)

This Act authorizes improvements in and for lands in townships or waters adjacent thereto by constructing bridges over natural or artificial waterways, laying storm sewers to care for surface water in streets, constructing or acquiring sanitary sewers and sewage disposal plants, constructing filtration plants, purchasing or constructing waterworks, constructing breakwaters, retaining walls or sea walls or any combination of the foregoing for beach and soil erosion control.

Township Water System Act of 1956.

Act 6, P.A. 1956 (Ex. Sess.) being C.L. 1948 487.501 et seq. MSA 1958 Rev Vol 5.2535 (1) et seq.)

This Act authorizes the formation of corporations for supplying to, distributing and selling water to a township or townships and giving such corporation rights to take water from the Great Lakes, Lake St.Clair, the bays thereof; authorizes a township to contract with such corporations for purchase of water and to purchase waterworks systems of such corporations.

Incorporated Villages

C.L. 1948 67.12 (MSA 1961 Rev Vol 5.1296)

The village council is empowered and authorized to "lay out, establish, open, make, widen, extend, straighten, alter, vacate or abolish any **** sewer, drain, watercourse, bridge, or culvert in the village" when deemed a public improvement or necessary for the public convenience.

C.L. 1948 67.24 (MSA 1961 Rev Vol 5.1308)

The village council is empowered and authorized "to construct and maintain sewers, drains, and watercourses whenever and wherever necessary **** for drainage of the village."

C.L. 1948 67.35 (MSA 1961 Rev Vol 5.1319)

The council of any village located upon or adjacent to any navigable waters of the State is empowered to establish, construct, maintain, and control public wharves, docks, piers, landing places and levees upon any lands or property belonging to or under the control of the village, including property at the end of public streets. The council is empowered to lease wharfing and landing privileges upon public wharves upon conditions stated in the Act.

C. L. 1948 67.36 (MSA 1961 Rev Vol 5.1320)

The council is authorized to establish and require conformity with grade provision for docks and wharves and to establish and prescribe dock line limits.

C.L. 1948 67.38 (MSA 1961 Rev. Vol 5.1322)

The council is empowered to provide by ordinance for preservation of purity of waters of any harbor, river, or other waters within the village, and to control and regulate use of the harbor by boats to promote order, safety and convenience, not inconsistent with laws of the United States or of this State.

C.L. 1948 67.39 (MSA 1961 Rev Vol 5.1323)

The council is empowered to appoint a harbor master.

C.L. 1948 67.40 (MSA 1961 Rev Vol 5.1324)

The village council is empowered to license ferries from the village to the opposite shore.

C.L. 1948 71.1 (MSA 1961 Rev Vol 5.1409)

Any village having a resident population of 200 or over is authorized to purchase, construct and maintain waterworks for supplying the village and its inhabitants with wholesome water for ordinary or extraordinary uses of the inhabitants and to construct and maintain a filtration plant.

C.L. 1948 71.2 (MSA 1961 Rev Vol 5.1410)

The village is empowered to acquire, erect and maintain for the waterworks reservoirs, canals, aquaducts, sluices, buildings, etc.

Fourth Class Cities

C.L. 1948 91.1 (MSA 1949 Rev Vol 5.1740) - General Powers

Such cities are empowered to provide for clearing the **r**ivers, ponds, canals, and streams of the city and races connected therewith of all driftwood and noxious matter and to prevent the depositing therein of any filth or other matter.

Harbors, Wharves and Harbormasters.

C.L. 1948 97.1-97.6 (MSA 1949 Rev Vol 5.1776-5.1781)

The city council of any city located upon any navigable waters of the state is empowered to establish, construct, maintain and control public wharves, docks, piers, landing places and levees, basins and canals, upon any lands belonging or under the control of the city.

The council is also empowered to preserve the purity of the waters of any harbor, river, or other waters within the city and 1/2 mile from the corporate boundaries; to prohibit depositing therein "any filth, logs, floating matter or any injurious thing," and to enact ordinances and regulations not inconsistent with the laws of the United States and of the State for the orderly, safe and convenience use and occupancy of the harbor, navigable waters, wharves, docks, piers and landing places within the city.

Sewers and Drains.

C. L. 1948 101.1 et seq. (MSA 1949 Rev Vol 5.1788 et seq)

The council is authorized to construct and maintain sewers and drains for drainage of the city.

Home Rule Cities

C.L. 1948 117.4h (MSA 1949 Rev Vol 5.2081)

Among the permissible charter provisions of such cities may provide:

Water Courses:

"(4) For the use, control, and regulation of streams, waters and water courses within its boundaries, but not so as to conflict with the law or action thereunder where a navigable stream is bridged or dammed; or with riparian or littoral rights without their corporate limits;"

Docking of Watercraft and Hydroplanes:

"(7) For the acquiring, constructing, establishment
*** of facilities for docking of pleasure watercrafts
and/or hydroplanes within its corporate limits****."

Municipal Improvements

The Revenue Bond Act of 1933 as Amended

C.L. 1948, 14.101, as last amended by Act 192, P.A. 1963, et seq.; (MSA 1958 Rev Vol 5.2731 et seq. and 1961 Cum Supp)

Section 2 of this Act provides:

"This act shall be construed as cumulative authority for the exercise of the powers herein granted and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intention of this act to create full and complete additional and alternate methods for the exercise of such powers. The powers conferred by this act"

"shall not be affected or limited by any other statute or by any charter, except as otherwise herein provided. The functions, powers and duties of the state commissioner of health in connection with any such public improvement shall remain unaffected by this act."

The term "public improvements" as defined by the Act as including sewage disposal systems; water supply systems, "(including all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water and/or the distribution of water);" yacht basins; harbors; docks, wharves; bridges over, tunnels under, and ferries across lakes or any part thereof, rivers, streams, straits, and/or channels; recreational facilities. (Sec. 3(c))

The term "governing body" is to be construed to mean:

"in the case of a county, the board of supervisors; in the case of a city, the council, common council, commission or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees, or other body having a legislative powers; in the case of a township, the township board; in the case of a school district, the district board or board of education; in the case of a port district, the port commission; in the case of a metropolitan district, the legislative body of the district; and in the case of an authority, the body in which is lodged general governing powers."

Section 4 of this Act provides, in part:

"Any public corporation is authorized to purchase, acquire, construct, improve, enlarge, extend and/or repair one or more public improvements and to own, operate and maintain the same, within and/or without its corporate limits, and to furnish the services, facilities, and commodities of any such public improvement to users within and/or without its corporate limits:***

That the authority herein granted shall be further limited as follows:

"(c) Port districts shall be limited to such public improvements as are within the scope of their powers under acts creating the same.

**** "

Water Supply

Cities and Incorporated Villages.

Act 5, P.A.1870, as amended, being C.L. 1948 123.111 et seq. (MSA 1958 Rev Vol 5.2511 et seq)

This Act authorizes <u>cities</u> and <u>incorporated villages</u> to acquire or construct hydraulic works for supplying cities and incorporated villages with water.

Inter-City Joint Water Supply - Additional Source of Water Supply From Great Lakes, Bays Thereof, and Connecting Waters Between.

Act 130, P.A. 1945, being C.L. 1948 123.151 et seq. (MSA 1958 Rev. Vol 5.2532(1) et seq)

Authorizes cities to extend and improve their municipally owned water systems through acquisition and operation of joint source of water supply from one of the Great Lakes, bays thereof, and connecting water between.

Incorporation of Municipal Authorities - Water Supply Systems.

Act 196, P.A. 1952, being C.L. 1948 124.251 et seq. (MSA 1958 Rev Vol 5.2533(1) et seq.)

Provides for incorporation of municipal authorities by two or more cities, villages or townships to acquire, own and operate water supply systems.

Charter Water Authority Act.

Act 4, P.A. 1957, being C.L. 1948 121.1 et seq (MSA 1958 Rev Vol 5.2533(31) et seq)

An Act to provide for the incorporation of municipal authorities to acquire, own and operate water supply and transmission systems; to provide a municipal charter and to prescribe the powers and functions thereof.

Sewage Disposal and Water Supply Districts.

Act 211, P.A. 1956, being C.L. 1948 323.151 et seq. (MSA 1958 Rev. Vol 5.2769(81) et seq)

Prescribes certain powers and duties of the water resources commission relative to sewage disposal and water supply districts. Districts organized under the provisions of this act are authorized to make surveys, studies and investigations of water resources of the area within its limits to determine the feasibility and practicability of developing new sources of water supply to municipalities, industrial and commercial establishments as well as to

agricultural and residential lands to the end that "water shall be made available to the aforesaid of a quality and quantity necessary for the protection of the public health and the promotion of the gneeral welfare within the areas." (See 8(b))

Grants or Aids to Prevent or Abate Water Pollution.

Act 222, P.A. 1949, being C.L. 1948 323.101 et seq. (MSA 1958 Rev Vol 5.2770(21) et seq)

Authorizes county, city, village, township or metropolitan district or authority created by legislature to accept grants and aid from the United States government and from industries for public improvements for purposes of preventing and abating water pollution.

Metropolitan District Act

Act 312, P.A. 1929, as amended, being C.L. 1948 119.1 et seq. (MSA 1958 Rev Vol 5.2131 et seq)

This act authorizes the incorporation of a metropolitan district by any two or more cities, villages, or townships, or any combination or parts of them for acquiring, owning, operating and maintaining, among other things, public utilities for supplying sewage disposal, drainage or water.

Port Districts

Act 234, P.A. 1925, as amended, being C.L. 1948 120.1, as amended (MSA 1958 Rev Vol and 1961 Cum Supp 5.2151 et seq)

This act provides for the creation and establishment of port districts and places the control and management in a port commission. It also provides for adoption of a comprehensive port plan.

Among the powers conferred on a port district, it is empowered:

"to lay out, construct, condemn, purchase, acquire, improve, enlarge, extend, maintain, conduct and operate, seawall jet-elevators, grain bins, cold storage plants, terminal icing plants, bunkers, oil tanks, ferries, canals, locks, bridges, seaways, tramways, cableways, conveyors, modern appliances for the economical handling, storing and transporting of freight and handling of passenger traffic and other harbor improvements, and rail and water transfer and terminal facilities."

Each port district is also empowered:

"subject to the paramount authority of the federal government and the state or any municipality thereof, to regulate the construction of structures in navigable waters including the establishment of harbor lines, pierhead lines and bulkhead lines."

Section 18 of the Act provides:

"Each port commission shall have power to improve navigable and non-navigable streams of the United States and the State of Michigan wirhin the port district." (C.L. 1948 120.18; MSA 1958 Rev Vol 5.2168)

Section 19 of the Act provides:

"Each port commission shall have power to create and improve for harbor purposes any waterways within the port district; to regulate and control all such waters and all natural or artificial waterways within the limits of such port district so far and to the full extent that this state can grant the same and remove obstructions therefrom." (C.L. 1948 120.19; MSA 1958 Rev Vol 5.2169)

Section 35, provides, in part, that -

"the Act does not repeal, amend or modify any law heretofore enacted providing a method of harbor improvement, regulation or control."

Incorporation Acts

River Improvement Companies.

Act 149, P.A. 1869, as amended, being C.L. 1948 485.101 et seq. (MSA 22.1511 et seq.)

This act authorizes the formation of corporations for the purpose of improving the navigation of rivers, by deepening the channel, construction of dams and canals to connect therewith. Section 4 of the Act provides that no company formed under the Act shall be authorized to improve the navigation of any stream under this act until it has obtained the written assent of the Governor and Attorney General.

Water Power Companies.

Act 232, P.A. 1863, as amended, being C.L. 1948 486.1 et seq. (MSA 22.1581 et seq.)

This act authorizes the incorporation of water power companies for the purpose of maintaining, repairing and improving any canal with water-power appurtenant thereto, constructed and used for the transmission of water and the creation of water power thereby for manufacturing uses.

Act 39, P.A. 1883, as amended, being C.L. 1948 486.51 et seq. (MSA 22.1611 et seq)

This act authorizes the formation of corporations for excavating and constructing, maintaining, repairing and improving any canal already existing or which is constructed with water power appurtenances for storing, conducting and selling water and water power for mining, manufacturing, domestic, municipal and agricultural purposes.

Act 202, P.A. 1887, being C.L. 1948 486.101 et seq. (MSA 22.1631 et seq.)

The act authorizes formation of corporations for damming, excavating, constructing and maintaining watercourses with water power appurtenant for accumulating, storing, conducting, selling and supplying water and water power for mining, milling, manufacturing domestic, municipal and agricultural purposes and for purposes of navigation.

(Omitted Act 283, P.A. 1905 - MSA 22.1651 - re Upper Peninsula of Michigan)

Electricity and Water Companies.

Act 238, P.A. 1923, as amended, being C.L. 1948, 486.251 et seq., as last amended by Act No. 69, P.A. 1961 (MSA 1961 Cum Supp 22.1671 - 22.1674)

This act authorizes the formation of corporations for manufacturing electric energy with power to dam any stream, excavate, construct and improve any existing stream or canal with water power appurtenant thereto and to flood its land and property by constructing dams in any canal, or in creeks, streams, or other water courses, natural or artificial.

Companies for Introduction of Water into Towns, Cities and Villages.

Act 113, P.A. 1869, being C.L. 1948 486.301 et seq. (MSA 22.1681 et seq.)

This act authorizes formation of companies for introduction of water into towns, cities, and villages under conditions set forth in the act. Such company is empowered to "take the water from any springs, ponds, river, fountains, or streams and divert and conduct the same to said city."

Soil Conservation Districts

Act 297, P.A. 1937, as last amended by Act 111, P.A. 1963, being C.L. 1948 282.1 et seq. as amended (MSA 1958 Rev Vol 13.1781 et seq.)

This act declares the necessity for creating soil conservation districts and provides for the creation of such districts.

Section 2 of the Act provides:

"It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state."

Joint Flood, Drainage and Beach Erosion Control

Act 278, P.A. 1952, being C.L. 1948 281.621, as amended by Act 86, P.A. 1956 (MSA 1958 Rev Vol 13.1821)

An act to authorize the township board of any township, the legislative body of any incorporated city or incorporated village or the board of county road commissioners when directed by the board of supervisors of the county to acquire interests in land necessary to any flood control, drainage or beach erosion control project and to contract with the federal government in respect to such projects where federal funds are used.

Artesian or Flowing Wells

Act 236, P.A. 1961 (MSA 1962 Rev Vol 27A.2941)

This section of the revised judicature act provides:

- "(1) Any artesian or flowing well, the water of which is unnecessarily allowed to run to waste in an unreasonable manner to the depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells supplies from the same head or reservoir, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provided by law for other nuisances or tortious acts.
- "(2) Where any well is supplied by a head, reservoir, stratum, or vein or by percolating waters common to other springs or wells, and the owner thereof or his lessee or licensee puts its waters to a use unreasonable or unnecessary, in view of the condition and situation of the land on which it is situated, and through such unreasonable or unnecessary use, lowers or depletes the head, pressure, or supply of water of any spring or well dependent on the same head, vein, or "

- "stratum, to the detriment or injury of the owner or any person entitled to the use thereof, the well so unreasonably and unnecessarily used, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provised by law for other nuisances or tortious acts.
- "(3) Where any order or judgment is rendered under this section, declaring any well a nuisance because of the waste or unreasonable use of its waters and directing the abatement thereof, such order or judgment shall specify in some practicable manner the daily amount or volume of water that may be used or allowed to flow therefrom without violating such order or judgment, and specify such reasonable time as to the court shall seem just within which the provisions thereof shall be carried into effect. Any such order or judgment may be reopened at any time after entry on the question of reasonable use on a proper showing of change of circumstances or other equitable reason therefor."

Drain Code of 1956

Act 40, P.A. 1956, as amended, being C.L. 1948 280.1 et seq., as amended (MSA 1960 Rev Vol 11.1001 et seq. and 1961 Cum Supp), known as the Drain Code of 1956.

This act codifies the laws relating to laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, and such structures and mechanical devices as will properly purify the flow of such drains; to provide flood control projects; to provide water management districts and subdistricts, and for flood control and drainage projects within such districts.

Drain, as defined in the Act, includes any creek or river, any water-course or ditch, any sanitary or any combined sanitary and storm sewer, any structures or mechanical devices that will properly purify the flow of such drains, any pumping equipment necessary to assist or relieve the flow of such drains, and any levee, dike, barrier for the purpose of drainage or purification of flow. (Chap. 1, 3)

Whenever drains are conducive to the public health, convenience and welfare, they may be established, constructed and maintained. Drains and watercourses may be cleaned out, straightened, widened, deepened, extended, consolidated and relocated. (See Chap. 1, 1)

Drains may be laid out or extended into or along or from any lake or other body of water surrounded wholly or in part by a swamp, marsh or other low lands for "the general purpose of drainage contemplated by this act, but not so as to impair the navigation of any navigable river." (Chap. 1, 10, as amended by Act 228, P.A. 1963)

Established drains may be improved for the benefit of certain lands by the construction, operation and maintenance of dams in drains to control flow, water levels and seepage and to provide for removal of drainage when necessary by the use of pumps. (Chap. 15, 351)

Provision is made for granting to the United States the right to use certain easements and rights-of-way in connection with any Federal flood control project. (Chap. 18, 429)

Provision is made for the establishment of water management districts and subdistricts to undertake a project in all or three or more contiguous counties for flood control or drainage. (Chap. 22, 551 et seq)

Common Law

Public Rights in Water and Water Courses

In the early years of our State, the court was faced with the problems of determining the reciprocal rights of the public and of private riparian owners in the waters of the State--particularly our rivers and water courses. Historically, the rivers of the state formed the early highways and were the main avenues of public travel and transportation of goods. As the economy of our state developed, our rivers were used not only for boating, floating of logs, and general transportation purposes but also for the construction of mill dams and other local uses.

This issue was presented to our Supreme Court in 1853 in Moore V. Sanborne, 2 Mich. 519. Quoting from the syllabus of that case, the court laid down the following principles:

"The common law rule that those rivers only are subject to the servitude of the public interests which are of public or common use, for carriage of boats and lighters, and for transportation of property, has been enlarged, in this country, and in nearly all the states has been extended, so as to be adapted to the necessities of trade and commerce, and to embrace rivers upon which, in their natural state, there is capacity for valuable floatage, irrespective of the fact of actual public use, or the extent of such use. The fact that a floatable stream has not been used by the public, or has only been used by persons following a particular occupation, does not deprive such stream of its public character. Although in some of the states usage and custom have been regarded as the foundation of this public right in fresh rivers, in the new states of the union, from necessity and the nature of things, such cannot be the foundation of the public right.

"The true test in determining the right of public use in fresh water streams, as public highways, is whether a stream is inherently and in its nature, capable of being used for the purposes of commerce for the floating of vessels, boats, rafts or logs, Where a stream possesses such a character the easement exists, leaving to the owners of the bed all other modes of use not inconsistent with it."

As the use of our rivers and streams changed from commercial transportation to recreational uses—such as fishing, wading, and boating—the court was called upon to decide again what were these respective rights as between the State and the private riparian owners. In 1926 in Collins v. Gerhardt, 237 Mich. 38, the court had to decide whether a fisherman wading the Pine River was a trespasser while pursuing this sport within the confines of the stream. The court reviewed the decisions concerning navigable waters and finally held that the public has a right to fish a navigable stream as an incident to its navigability. It established what is known as an incident to its navigability. It established what is known as the "public trust doctrine," that is that the State, like the Federal government, has a perpetual and paramount trust in all the navigable waters in the state for the use and benefit of the public. In its opinion it stated at pp. 48 and 49:

"Pine river is navigable. In its waters the people have the common right of fishing. The plaintiff, though owner of the soil, has no greater fishing rights than any other citizen. Their rights are equal and correlative. So long as water flows and fish swim in Pine River, the people may fish at their pleasure in any part of the stream subject only to the restraints and regulations imposed by the State. In this right, they are protected by a high, solemn, and perpetual trust, which it is the duty of the State to forever maintain. Of course, in exercising this right people cannot go upon the uplands of riparian owners in order to gain access to the water. If they do that they are guilty of trespass."

However, riparian owners persisted in their efforts to upset the "public trust doctrine," so again the state had to intervene on behalf of the public. The case of Attorney General, ex rel. Director of Conservation, V. Taggart, 306 Mich. 432, was decided by the Supreme Court in 1943. It involved the right of members of the public to fish in the waters of the Little Pere Marquette River. Holes had been dug by Mr. Taggart to stop trout fishermen from wading the stream. The court reaffirmed its doctrine in the Collins case and compelled Mr. Taggart to fill up the holes, since his actions in effect prevented the public from making a legitimate and proper use of the stream.

It must be emphasized here that the court in these decisions made it plain that public uses change from decade to decade and from generation to generation of the people and that the public trust must be expanded and fitted to the changing needs of our people.

Riparian Owner and Riparian Rights

This section concerns itself with the reciprocal and correlative rights of riparian owners on the navigable waters of our state. It must be read and considered in the light of the preceding section on the "public trust doctrine." In other words, like the court said in Collins v. Gerhardt, the public trust of the state when rightfully and properly exercised is paramount and perpetual in the same manner that the Federal navigation servitude is paramount and perpetual.

Riparian Owner

The word "riparian" is derived from the Latin "ripa" meaning "the banks of a river, or the place beyond which the waters do not in their natural course overflow." Black's Law Dictionary.

A riparian owner or proprietor is defined (Black's Law Dictionary) as one who owns land bounded by natural watercourse.

Riparian Rights Attach to Land Bounded by Natural Watercourse

In Bauman v. Barendregt, 251 Mich. 67, at page 69, the Court said:

"It is a settled rule in this State, that, where there is no reservation of them riparian rights attach to lots bounded by natural watercourses. Watson v. Peters, 26 Mich. 508; Richardson v. Prentiss, 48 Mich. 88; Turner v. Holland 65 Mich. 453; Ice & Coal Co. v. Ice & Coal Co., 102 Mich. 227 (25 L.R.A. 815, 47 Am St. Rep. 516)."

Riparian land must be in actual contact with the water. Carp Pond v. River Raisin Paper Co., 240 Mich. 287.

Riparian Rights in a Bayouof Saginav River

Turner v. Holland, 65 Mich. 453. Issue was whether riparian rights attached to lots fronting on a bayou of Saginaw River under a plat. Upon the facts submitted the Court found the bayou to be navigable for vessels of light draft and held that riparian rights attached to the lots involved. As to the bayou, the Court said on page 466:

"I regard it as immaterial whether a current flows through the bayou or not. Water may be navigable without a current, and it might not be with. Neither is a current essential to riparian rights. They exist in lakes or ponds where there is no current, and they may exist where the waters are not capable of navigation."

Riparian Rights are Property Rights Not in the Water Itself but to the Use of the Stream Which Cannot be Appropriated by the State Under the Police Power.

In People v. Hulbert, 131 Mich. 156, where the City of Battle Creek as riparian owner on an inland lake took water from it for use and sale. A local act of the legislature prohibited bathing in that lake. Defendant, also a riparian owner, was convicted of violation of the act. His defense was that he was exercising a common law right "incident and appurtenant to the ownership or lawful occupation of land upon an inland lake in this State."

The Court held that a riparian owner on a lake has a right to bathe in it as against the City drawing its water supply from the lake under like ownership and that it was not within the police power of the State to prohibit the exercise of such right.

In arriving at its decision, the Court on pages 160 and 161 quoted at length two English cases wherein the basis upon which the law of natural streams has developed, namely, Wood v. Waud, 3 Exch. 748, wherein Pollock, C.B., speaking for the Court, said:

"Flowing water, as well as light and air, are in one sense, 'publici juris.' They are a boon from Providence to all, and differ only in their mode of enjoyment. Light and air are diffused in all directions, flowing water in some. When property was established, each one had the right to enjoy the light and air diffused over, and the water flowing through the portion of soil belonging to him. The property in the water itself was not in the proprietor of the land through which it passes, but only the use of it, as it passes along, for the enjoyment of his property, and as incidental to it. The law is laid down by Chancellor Kent, in 3 Comm. 439, thus: 'Every proprietor of lands on the banks of a river has naturally an equal right to the use of the water. * * * He has no property in the water itself, but a simple usufruct as it passes along.'"

and Embrey v. Owen, 6 Exch. 353, Baron Parke, speaking for the Court, said:

"The law as to flowing water is now put on its right footing by a series of cases * * * and is fully settle in the American courts. * * * The right to have a stream flow in its natural state, without diminution or alterations, is an incident to the property in the land through which it passes. But flowing water is publici juris; not in the sense that it is a bonum vacans (vacant goods) to which the first occupant may acquire an exclusive right, but that it is public and common in this sense only: That all may reasonably use it who have a right of access to it; that none can have any property in the water itself; except in the particular postion which he may choose to abstract from the stream and take into his possession, and that during the time of his possession only. * * * But each proprietor of the adjacent land has the right to the usufruct of the stream which flows through it.

"The right to the benefit and advantage of the water flowing past his land is not an absolute and exclusive right to the flow of all the water in its natural state. * * * But" "it is a right only to the flow of the water, and the enjoyment of it, subject to the similar rights of all the proprietors of the banks on each side to the reasonable enjoyment of the same gift of Providence."

In Monroe Carp Pond Co. v. River Raison Co., the Court said:

"The right to the use of the water in a stream by a riparian proprietor is not absolute. It is a natural right, qualified and limited by the existence of a like right on the part of others. It is an incident of the ownership of the land through which the stream passes."

This was a suit by a lower riparian owner and operator of a carp pond to enjoin the pollution of the river by defendants' wastes and to recover damages for loss of carp due thereto.

Michigan Does Not Subscribe to the Rule of Prior Appropriation or First Occupancy of Water

In Preston v. Clark, 238 Mich. 632 (1927), the Court had before it the question of whether a lower riparian owner who had for many years operated a mill could acquire a prescriptive right of use of the watercourse in its existing condition against an upper riparian proprietor's right to erect and maintain a dam. One member of the Court held that the lower riparian had acquired a right to have the flow to his mill as it had existed for some fifty years without material diminution or delay. Mr. Justice Wiest, speaking for the majority of the Court, said:

"To my mind, my Brother makes no distinction between a prescriptive right by adverse user and the old and abandoned rule of first occupancy or prior appropriation. * * * there is no such thing recognized here as prior appropriation or first occupancy by a lower proprietor."

In support of this, the Court adopted the reasoning of the leading case of Hoy v. Sterrett, 2 Watts (Pa.) 327, wherein the Court said:

"A person erecting a mill and dam upon a stream of water does not, by the mere prior occupation, gain an exclusive right, and cannot maintain an action against a person erecting a mill and dam above his, by which the water is in part diverted and he is in some degree injured. * * * A contrary principle would be very pernicious, particularly in a new country; for the necessary effect will be to impair the value of all the land through which the stream passes. * * * If a thing be common, there may be an appropriation by general consent or grant. Mere priority of appropriation of running water, without such consent or grant, confers no exclusive right. It is not like the case of mere occupancy, where the first occupant "

"takes by force of his priority of occupancy. That supposes no ownership already existing, and no right to the use already acquired. But our law annexes to the riparian proprietors the right to use in common, as an incident to the land; and whoever seeks to found an exclusive use must establish a rightful appropriation in some manner known and admitted by the law."

It must be kept in mind that the doctrine of appropriation, i.e., that the one first using the water has the prior right to the use of it to the extent of his needs, prevailing in the western arid states, grew out of the customs and necessities.

General Rule of Reasonable Use Stated in Dumont v. Kellogg, 29 Mich. 420 and approved in Preston v. Clark, 238 Mich. 632,641:

"As between different proprietors on the same stream, the right of each qualifies that of the other, and the question always is, not merely whether the lower proprietor suffers damage by the use of the water above him, nor whether the quantity flowing on is diminished by the use, but whether under all the circumstances of the case the use of the water by one is reasonable and consistent with a correspondent enjoyment of right by the other. Each proprietor is entitled to such use of the stream, so far as it is reasonable, conformable to the usages and wants of the community, and having regard to the progress of improvement in hydraulic works, and not inconsistent with a like reasonable use by the other proprietors of land on the same stream above and below. Shaw, C.H. in Cary v. Daniels, 8 Metc. 477. * * * As was said by Mr. Justice Story in Tyler v. Wilkinson, 4 Mason 401, to hold that there can be no diminution whatever, no obstruction or impediment whatsoever, by a riparian proprietor in the use of water as it flows, would be to deny any valuable use of it. There may be and there must be allowed of that which is common to all a reasonable use by each."

Carp Pond Co. v. River Raisin Paper Co., 240 Mich. at 285:

In reference to the right to use water in a stream by a riparian owner -

"The enjoyment of such use by a landowner is prior to those below him, and subsequent to those above him, on the stream. The water may by his use be rendered. unfit for many purposes for which pure water is suitable, and yet the lower riparian proprietor may have no just cause for complaint, if its condition results from a reasonable use thereof in accordance with the common right."

Ponding Water on Another's Land - Obstructions in the Stream by Lower Riparian Owner Causing Ponding on Land of Upper Riparian Owner

Allen v. Thornapple Electric Company, 144 Mich. 370. Plaintiff, upper riparian owner, filed a bill to enjoin to maintenance of a dam by lower riparian owner which caused ponding of waters of Thornapple River on their lands especially when the stream was swollen by freshets. The Court said:

"On principle we must say that the owner of land is entitled to have the water enter and leave his premises in the natural and ordinary way at all times, and this rule applies to ordinary low water and ordinary high water. Subject to this the owners above and below may use the water for their own purposes. But the lower proprietor may not raise the bed of the stream below to a level for six miles, where previously there was a fall of eighteen feet, either by filling with earth or a dead wall of water, thereby causing the accumulation of a head above to the injury of his neighbor, even in such effect is slight or imperceptible except in seasons of rain. He must act with reference to all ordinary stages of water and all seasons, and the exception relates only to those extraordinary and abnormal conditions and floods, which, if known before, at least occur only on rare occasions."

As to Diversion:

In Dumont v. Kellogg, 29 Mich. 420, Mr. Justice Cooley speaking for the Court, in speaking of where a stream had been diverted from its natural course and turned away from a proprietor below, said:

"No person has a right to cause such a diversion, and it is wholly a wrongful act, for which an action will lie without proof of special damage."

As to Interference With the Flow of a Stream by a Stranger:

"an interference by a stranger, who, by any means, or for any cause, diminishes the flow of waters; * * * this also is wholly wrongful, and no question of the reasonableness of his action in causing the diminution can possibly arise." Dumont v. Kellogg, 29 Mich. 420.

Water From a Stream Cannot be Diverted for Municipal Purposes to Injury of Riparian Proprietor Without Compensating Him for Such Injury Where Municipality is Riparian Owner:

Lorager v. City of Flint, 185 Mich. 454, the Court followed the holding in Stock v. Hillsdale, 155 Mich. 375, and quoted the following therefrom as the law:

"The circuit judge properly held that the city had not the right to divert the water as an upper riparian owner and to pump the water out of his lake for the use of citizens generally and to supply manufacturing establishments within its limits, and he also found that the use of the water in the manner in which it was used by the city had affected seriously the flow of water to the complainant's mill properties, and implied that he had suffered some damage. * * *"

The Court there noted:

"It is possible the time may come when the paramount necessity of a city to use the water of a navigable stream for domestic purposes will become so pressing that legislative action will be justified in changing the rule now existing, but this record does not disclose such necessity."

Numerous Cases in Which the Court Has Held That Riparian Rights are Property Rights Which Cannot be Appropriated Without Compensation:

In Hilt.v. Weber, 252 Mich. 198, p. 225, the Court said:

"Riparian rights are property, for the taking or destruction of which by the State compensation must be made, unless the use has a real and substantial relation to a paramount trust purpose. 45 C.J., p. 491; 1 Farnham on Waters and Water Rights, p. 297; United States v. River Rouge Improvement Co., 269 U.S. 41 (46 Sup.Ct. 144); Illinois Central R. Co. v. Illinois, 146 U.S. 387."

In Thunder Bay Booming Co. v. Speechly, 31 Mich. 335, the upper riparian owner opened flood gates during low water and by flooding prevented lower riparian owners from operating his mill. Defendants argued that Thunder Bay River was a public stream, navigable for purpose of floating and booming logs, and that any rights of riparian proprietors are subservient to the right of the public to make use of the stream as a public highway. Mr. Justice Cooley, speaking for the Court, said:

"The doctrine, which we derive from the cases, is, that a stream may be a public highway for floatage when it is capable in its ordinary and natural state in the seasons of high water of valuable public use. The inference sought to be drawn from it is, that a navigable stream must, in contemplation of law, be navigable at all times, and under all circumstances; that there can be no such thing as a highway which is only open to the public use periodically, but that "

"when once the public character of the way is established, the right of the public to the easement is paramount to all private rights, and that nothing done to facilitate the public use can be the foundation of a right of action unless in itself unreasonable, when the due subordination of private to public rights in the stream is considered and properly allowed for. But no such inference is warranted by the decisions. The highway they recognize is sui generis, and in which the public rights spring from peculiar facts. It is public highway by nature, but one which is such only periodically, and while the natural conditions permit a public use. During that time, the public right of floatage and the private right of the riparian properietors must each be exercised with due consideration for the other, and any injury which the latter receives in consequence of a proper use of the stream for floatage, he must submit to as an incident to his situation upon navigable waters. * * * Middleton v. Booming Co., 27 Mich. 533. But at periods when there is no highway at all, there is no ground for asserting a right to create a highwy by means which appropriate, or destroy private rights. The doctrine that they may be done without compensation to parties injured, is at war with all our ideas of property and of constitutional rights. The most that can be said of this stream, during the seasons of low water, is, that it is capable of being made occasionally navigable by appropriating for the purpose the water to the natural flow of which the riparian proprietors are entitled. It is highly probable, in view of the large interests which are concerned in the floatage, that the general public good would be subserved by so doing, but this fact can have no bearing upon the legal question. It is often the case that the public good would be subserved by forcing a public way through private possessions, but it neither should be nor can be done under any circumstances without observing the only condition on which it can be permitted in constitutional government, namely, that the private proprietor be compensated for the value which he surrenders to the public. We do not question the right of the legislature to provide for the taking of riparian rights for this purpose; * * * "

The Court then referred to riparian rights as:

"valuable riparian rights which the plaintiff acquired by the purchase of lands over which the stream runs; this appropriation without compensation is no more admissible than would be the taking of land for an ordinary highway or a railroad."

Condemnation of Land Bordering River by City for Hydroelectric Light and Power Plant -Power of Stream an Element of Value

In City of Allegan v. Vonasek, 259 Mich. 310, the City brough condemnation proceedings to obtain property for the establishment of a hydroelectric power plant upon the Kalamazoo River. Consumers Power Company owned land along the river which, in union with lands of other riparian proprietors, possessed potential value for water-power purposes, and it asked compensation for taking away of such future possible use. The Court pointed out that the condemnation by the United States government of upland bordering the St. Marys River in the case United States v. Chandler-Dunbar Water Power Co., 229 U.S. 53, was "for the purpose of improving navigation;" and that the government there was exercising its sovereign right in behalf of navigation, while in the case at bar "no question of navigation is involved." The following rule was applied.

"Although no one of the riparian proprietors owns the banks on both sides of the stream, nor has the right to erect a dam across it, and no two or more of them, as cotenants, owns said banks or have the right to erect a dam across it, yet each owns an interest in the power furnished by the stream, although not actually applied, which may be united in one ownership, or be held as co-tenants, and this interest cannot be taken for public use without making just compensation to the owner thereof."

Valuable Right - Affects Value of Property

Watson v. Peters, 26 Mich. 517, in speaking of a conveyance with water as a boundary, the Court said:

"It will never be presumed that he (grantor) reserves to himself proprietary rights in front of the land conveyed, which he may grant to others for private occupation, or so occupy himself as to cut off his grantee from the privileges and conveniences which appertain to the shore of navigable waters. Such privileges and conveniences constitute a part, and in many cases the principal part, of the value of a grant; and it is precisely in these cases of city lots that they are of most value, and generally constitute the chief inducement to the purchase; and the chief, or at least a very important element in determining the price."

Riparian Rights are Protected by the Constitution and Cannot be Taken Away Except by Due Process of Law

In Dohany v. City of Birmingham, 201 Mich. 30 (1942), the City was not a riparian owner, but during heavy rainfalls sewage from a pool, forming a part of the City's sewage disposal system, spilled over and across plaintiff's land contaminating a small stream running through it.

The city claimed its position was analogous to that of a riparian owner because surface water finds its natural outlet in plaintiff's water-course. The Court there said:

"No public necessity warrants a city in injuring the rights of riparian owners by polluting a stream with its sewers; such rights are protected by the Constitution (Const. 1908, Art. 2, Sec. 16) and cannot be taken away except by due process of law. Attorney General ex rel Township of Wyoming v. City of Grand Rapids, 175 Mich. 503; Gundy v. Village of Merrill, 250 Mich. 416."

Surface Water

Since all streams and lakes are affected by surface water, it was thought helpful to include a few decisions outlining certain principles in connection with surface water.

Robinson v. Belanger (1952) 332 Mich. 657. A small lake called Belanger's Lake was for many years on property owned by defendant Belanger. Because of the discontinuance of a railroad tank pumping station and construction of a county road along the westerly edge of the lake, the waters of the lake rose some three or four feet and the water extended approximately thirty feet to a depth of about eighteen inches on the owner to the east. The parcel of land to the east of the lake also drained naturally into this lake. Plaintiff became owner of the parcel of land east of defendant when a small portion of the lake stood on his land. Defendant started to build a dike so as to contain the water wholly on his own land. Plaintiff brought injunction to restrain construction of an embankment confining the flow of the water from plaintiff's land and holding the surface waters from flowing from plaintiff's land into the lake.

The Court there reiterated the definition of surface waters and rights to run-off, as follows:

Definition - Surface Waters

"Surface waters are commonly understood to be waters on the surface of the ground, usually created by rain or snow, which are of a casual or vagrant character, following no definite course and having no substantial or permanent existence. Fenmode, Inc., v. Aetna Casualty & Surety Co., 303 Mich. 188, 192."

Right to Drainage

"The law is well settled in this State and elsewhere that the natural flowage of surface water from an upper estate is a servitude which the owner of the lower estate must bear, and he cannot hold it back by dikes or dam its natural channels of drainage to the injury of the owner of the upper estate." Crane v. Valley Land Co., 203 Mich. 353, 359.

Mingling of "Surface Waters" and Standing Water

The Court said:

"We share the difficulty encountered by the trial judge in drawing any distinction between the waters of the lake extending onto Robinson's (plaintiff) land and the surface water which flows into the lake. The standing waters do not fall within the definition of 'surface waters.' The present lake level appears to be permanent. Although the standing water is lake water, it also includes the accumulated flowage of surface water. It is apparent, therefor, that the embankment, which confines the water on Robinson's (plaintiff's) land, does obstruct the normal, natural flow and run-off of surface water from plaintiff's upper land."

Rivers-Lakes-Ponds-Streams Treated in Law as Watercourses

In Bauman v. Barendregt, 251 Mich. 67, 69, the Court stated:

"Titles and rights in the latter (inland waters) were early declared to be governed by the same rules of law, whether they were rivers, lakes, or ponds, and whether the lakes were large or small. Rice v. Ruddiman, 10 Nich. 125; Turner v. Holland, 65 Mich. 453. They are treated and designated generally as watercourses. The titles to the beds are in the riparian owners."

JURISDICTIONAL PROBLEMS ARISING OUT OF NAVIGATION

Simply stated, the hard-core jurisdictional problems or conflicts stem from the navigation powers vested in the Federal government. In Gibbons v. Ogden, 22 U.S. (9 Wheat) 1,6 L, Ed 23 (1824), the commerce clause of the U. S. Constitution was construed to give the Federal government almost complete jurisdiction over all streams. By Federal control over navigation, as part of the interstate commerce, the courts mean both navigable streams (i.e., once having been navigable or navigable in fact or navigable after reasonable improvement) and nonnavigable streams (i.e., those non-navigable streams which affect the navi able capacity of navigable streams. In view of Arizona vs. California, 375 U.S. 546 10 L. Ed 2d 542, 83 Sup Ct 1468 (1963), where the court sustained congressional power to allocate navigable water among competing states in disregard of state law, it appears that Congress has the power to control streams for whatever purpose they may enact, without regard to state plans, providing the project serves navigation purposes, even though incidental. This determination that a particular project will benefit navigation is essentially legislative in nature and the court in the United States vs. Twin City Power Co.,

350 U.S. 222, 100 L Ed 240, 76 Sup Ct. 259 (1956) Sustained the Savannah River Clark Hill Project, which Congress describes as benefiting navigation at best "incidentally" by stating it was:

"not for courts--to substitute their judgments for congressional decisions--Courts should respect that decision until and unless it is shown to involve an impossibility."

This state control over its water resources must be viewed in terms of this strong Federal limitation. In addition to this limitation on state action, navigation servitudes as a concimitant of navigation power, place a limitation on private property rights by permitting the Federal government to take, without compensation, certain types of private property under the navigation power.

As an illustration of the non-compensable "taking" under the navigation servitudes doctrine reference is made to the case of the United States vs. C.M., St. P. & P. R.R. Co., 312 U.S. 592 85 L Ed 1064, 61 Sup Ct. 772 (1941) where the court held that the navigation servitude extends to the ordinary high-water mark and no compensation need be paid if a claimant's property lying below the ordinary high mark is injured by the United States permanently raising the stream to that level.

By a series of cases the navigation power was given a wide scope. Thus the Federal navigation power was construed to mean the United States has the power to prevent obstructions to navigation in Oklahoma vs. Atkinson, 313 U.S. 508 (1941), to license obstructions to navigation in United States vs. Appalachian Power Co., 311 U.S. 377 (1941), to use the obstruction for hydroelectric power generation in Ashwander vs. T.V.A. 297 U.S. 288 (1936), to prevent diversions in Sanitary District of Chicago vs. United States 266 U.S. 405 (1925), to protect non-navigable tributaries in U.S. vs. Rio Grande Irrigation Co.; 174 U.S. 690 (1899).

Specific jurisdictional problems may arise under the Federal government's exercise of its navigation powers in relation to various individual riparian owners. Thus in Economy Light Co. vs. United States, 256 U.S. 113 (1931), the Supreme Court sustained an injunction restraining the defendant from constructing a dam in the Des Plaines River at a point in Grundy County, Illinois, without the consent of Congress or authority of the legislature of the State, and without approval of the location and plans of the Chief of Engineers and the Secretary of War, as a violation of the Act of Congress of March 3, 1899 c 425, Sec. 9, 30 Stat. 1121, 1151.

JURISDICTIONAL PROBLEMS ARISING OUT OF WATER POLLUTION ABATEMENT

The historical role of local government as the sole entity responsible for the disposition of waste materials subject to the legal rights of private litigants to prevent pollution has been modified by the imposition of administrative machinery by the state whose role is primarily one of regulation, assistance and supervision and by the Federal government whose role is primarily research and financial assistance for intrastate waters and regulatory for interstate waters.

The historic role of private litigants is illustrated by Barrington Hills Country Club vs. Village of Barrington, 357 III 11, 191 N.E. 239 (1934) and Ruth vs. Aurora Sanitary District, 17 III 2d 11, 158 N.E. 2nd 601 (1959). In Barrington Hills Country Club vs. Village of Barrington, the plaintiffs were riparian owners of lands on Flynn Creek and sought a permanent injunction against the Village of Barrington, Illinois, to prevent it from discharging sewage and the efflux from its sewage treatment plant into the Creek above plaintiff's premises. One of the defendant's arguments was that the Sanitary Water Board (the state administrative agency charged with pollution control by c. 19, Sec 129 et seq (1929)) had exclusive jurisdiction over the subject matter. The Court sustained the finding that the stream was in fact polluted and that the lower riparian owners could enjoin such a private nuisance:

"A private nuisance may be enjoined by a suit in equity or the party suffering damage and injury may proceed at law, and the remedies are concurrent and not exclusive."

Further, the legislative act creating the Sanitary Water Board:

"---does not extend the authority of the Sanitary Water Board to include control of private property rights of riparian owners and does not authorize any encroachment upon such rights."

In Ruth vs. Aurora Sanitary District, a real estate developer of approximately 1,200 homes, within the boundaries of the defendant, was denied sewer connections for said development and thereafter successfully obtained an injunction requiring the defendants to abate an existing nuisance by the discharge of untreated or inadequately treated sewage into the Fox River. The practical result of the case was additional construction of sewer facilities thereby permitting connection of plaintiff's subdivision.

The deficiencies inherent in pollution control by private litigants are best characterized in a study of the National Academy of Science entitled "Waste Management and Control" (1966) pp 231-3.

- " -- Long before administrative agencies were set up to wrestle with problems of water pollution, the courts were attempting, through a system of public and private rights, to protect people from at least the worst effects of the other fellow's waste disposal. These rights were evolved and declared through a court-made process of case law, largely unaided by legislation. Through this case law process, Anglo-American courts have sometimes required the polluters to treat pollutants, pay for the consequences of pollution, or to halt polluting activities, Courts have avoided the abstract and palled term, "extremalities," They have grubbed into human conflicts, attempting to prevent the shifting onto innocent people of at least the most obvious cost of pollution -costs which the court saw in terms of unhealthful, uncomfortable, unpleasant living, or of sharp interference with desired uses of land and other resources. What should be the future role of the courts in pollution control? Slould they become merely reviewing tribunals that have no jurisdiction until administrative remedies have been exhausted? Are there ways in which the court's role can be improved and strengthened? -- This system of court declared rights and the judicial process through which these rights are enforced have certain obvious limitations in relation to elimination or alleviation of pollution:
- (1) Courts are not equipped with the requisite technical staffs. Nevertheless -- they do have, or could be given, power to call upon pollution agencies to act as "masters in chancery" for them.
- (2) Only these cases are decided that are brought to the court and prosecuted to ultimate decision. Courts do not on their own initiative exercise continuing supervision over a problem shed.
- (3) The areas demarked by the ownership boundaries of the land involved in a case may not be co-extensive with the total problem shed. Yet -- courts could be equipped, as some have been in water-quantity-allocation cases, to bring in all necessary parties in the problem shed.
- (4) Requirements with respect to burden of proof frequently impose on complainants extremely high costs for measurements, technical data gathering, and expert testimony -- Costs too high for most private parties to bear. This is particularly true where multiple sources of pollution are involved.
- (5) Legal standards administered and applied by the courts in pollution cases are notoriously general and vague.

The words "reasonable" and "substantial" hold sway and the court's attempt to balance "utility of conduct" against "gravity of harm." Prediction of what a court will or will not do in a particular case under a particular set of vocational, economic, social, aesthetic, and other variable is extremely risky.

Because of the aforesaid deficiencies, combined with other factors, great impetus was given to the creation and development of state specialized administrative agencies designed to control and abate pollution. In general, two standards have been employed by these agencies for pollution control: effluent standards (accomplished by providing for state administrative review of local sewage treatment plants) and stream standards. Illustrative of the administrative use of effluent standards is the case of State ex rel Martin vs. Juneau, 238 Wis 564, 300 N.W. 187 (1941) which was an action to compel the defendant city to comply with orders of the State Board of Health and the State Committee on Water Pollution by providing an adequate sewage treatment system. The court rejected the city's argument that the controlling statute was invalid because it was indefinite and uncertain since it contained no standard to overn the actions of the state committee on water pollution. The statute in question was Section 144.53 (5), Wis Stat (1940) which provided as follows:

"It shall be the duty of the committee on water pollution and it shall have power, jurisdiction, and authority:

"To issue special orders directing particular owners to secure such operating results toward the control of pollution of the surface waters as the committee may prescribe within a specified time. If such results are not secured in the specified time, the committee may direct the owner to use or adopt designated systems, devices, and methods for handling industrial wastes, refuse and other wastes within a specified time."

Federal administrative agencies dealing with water pollution control were constructed within the foregoing framework for practical purposes in 1948 with the passage of the Water Pollution Act (33 U.S.C. 466) and their role was significantly enlarged with the 1965 Amendment thereto, known as the Water Quality Act (Public Law 89-234). The enforcement procedures, including the adoption of water quality standards, suggests an identical area of conflict. Thus in Illinois, as an example, enforcement machinery is presently divided between the state Sanitary Water Board and the Metropolitan Sanitary District of Chicago. Recently, the State of Illinois, by the Attorney Ceneral, filed suit against the Village of Thornton, Illinois, charging a violation of Section 10 of the Sanitary Water Board Act of 1951 (Ch. 19, Section 145.10, L R S, 1965) which provides as follows:

"No person shall thrown, run, drain, or otherwise dispose into any of the waters of this state or cause, permit suffer to be thrown, run drained, allow to seep or otherwise dispose into such waters, any organic or inorganic matter that shall cause pollution of such waters."

The Thornton suit is unusual since most water pollution violations occurring in Cook County are dealt with by the Metropolitan Sanitary District. The Village of Thornton, however, is situated in that prt of Cook County which is outside of the Sanitary District's jurisdiction

and thus the Sanitary Water Board of Illinois has primary jurisdiction. The suit filed by the Illinois Sanitary Water Board charges the Village of Thornton with releasing or allowing to be released inadequately treated wastes into Thorn Creek, in Cook County, Illinois, and thereby proximately causing the watercourse to be polluted within the meaning of Chap. 19, Sec. 145.2, I.R.S., (1965) which defines pollution as:

"-- such alteration of the physical, chemical, or biological properties of any waters of the State, or such discharge of any liquid, gaseous, or solid substance into any water of the State as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, or to domestic, commercial or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life."

The filing of the lawsuit illuminates a recent report of the Water Pollution Department of the Attorney General of Illinois which indicates increased law enforcement in this area in the past eleven years. For example, in 1956, one case was reported; in 1964, eighteen cases were reported; in 1967, forty-five cases were filed in less than six months.

One of the impacts upon local pollution enforcement of the new state water quality standards required by the Federal Water Quality Act of 1965 is the question of which agency will be responsible for enforcement. Thus, in Illinois, a major policy battle appears to be arising between the Illinois Sanitary Water Board and the Metropolitan Sanitary District of Greater Chicago. The Illinois Sanitary Water Board asserts that the Metropolitan Sanitary District will be responsible for enforcing all water pollution violators of the new standards, within Cook County, and the latter disclaims enforcement responsibility and intends to close the District's enforcement office saving an estimated \$2.5 million spent annually for enforcement and employing this sum for flood control projects.

MISCELLANEOUS JURISDICTIONAL PROBLEMS

The scope of water powers of any governmental entity, when viewed in isolation, inevitably leave an impression of the vast array of legal powers available to solve water problems, the highly fragmented dispersal of powers among the governmental entities with a resulting overlapping of functions and isolation of approaches, and an awareness that legislative solutions to water problems historically have been on an <u>ad hoc</u> EMPIRICAL basis. As a result, the traditional analysis of jurisdictional disputes has been in terms of duplication of powers -- i.e., who can do the job and who should do it. However, recent disputes have highlighted a subtle area of jurisdictional problems: The interaction of governmental agencies. Thus two recent examples illustrate this proposition:

The General Superintendent of the Chicago Metropolitan Sanitary District requested in the Spring of 1967 in testimony before the House Public Works Committee's subcommittee on Rivers and Harbors that a Con ressional investigation be made of the Illinois Sanitary Water Board's method of distributing

Federal funds. The superintendent testified that the Chicago Sanitary District is not receiving its fair share of Federal sewage grants, and that the State Board's program was a violation of Federal policies. The record of the testimony indicates that the Federal formula for distribution of United States grants by the State Water Board requires that two-thirds of the grants be distributed in direct proportion to population and that an analysis of Illinois shows that only five percent of the State's population will receive any benefits from the Federal funds, while one percent of the population will receive fifty percent of all sewage construction Federal funds allocated. The record of testimony also indicates that the Chicago Metropolitan Sanitary District submitted fifteen applications for construction funds in 1966 and all of them were not approved by the State Sanitary Water Board.

The second recent illustration of the interaction of Government agencies giving rise to jurisdictional disputes is the proposed new policies by the Chicago Metropolitan Sanitary District formulated in accordance with the new anti-pollution standards outlined in the Federal Water Quality Act of 1965. The proposed policies would affect 115 Cook County towns and the Cook County Board (jurisdiction over unincorporated areas), in terms of flood control and waste disposal by setting forth the following new standards:

- (1) By prohibiting the granting entity permits to any governmental entity planning to carry both sanitary wastes and storm run-off water in combined sewers and thus requiring complete separation of all sanitary and storm sewers when undeveloped areas are developed and local systems are extended.
- (2) By prohibiting the granting of sewer permits to any governmental entity unless a flood plain zoning ordinance has been adopted which meets the approval of the District.

A substantial number of affected governmental entities have voiced objections along the line that the District should mind its own business and quit trying to legislate in communities where the District has no jurisdiction.

The substantive law of the State of Michigan in the Grand River Basin Project governing private rights in water gives rise to problems which loosely may be classified as jurisdictional inasmuch as they postulate opposite theories of law and hence demonstrate the inherent difficulties in achieving a system of uniform water laws in the Basin, such as in envisioned by the proposed Uniform Water Law Code. Heretofore reference has been made to opposing rules of law dealing with diffused surface water, known as "civil law" rule and the "common enemy" rule. Also illustrative of this proposition is the varied opposing views of the States within the basin in dealing with the problems of fishing rights. Thus in Illinois it does not appear that fishing rights hinge upon the question of whether a

stream or body of water is navigable. As to streams which are not navigable in fact, the owner of the bed of the stream has a right to control fishing on such stream. As to streams which are navigable in fact in their natural state and were navigable at the time that Illinois joined the Union, the public had the right to fish.

The test of navigability in Illinois is whether a stream in its ordinary and natural condition has a sufficient channel on which commerce may be carried on in the customary mode in which commerce is ordinarily conducted by water. In Sanitary District of Chicago vs. Boening et al, 267 Ill. 118, 107 N.E. 810 (1915), the court approved the following jury instruction as a correct statement of the law of navigability in Illinois:

"You are instructed that a stream, to be navigable, must furnish a common passage capable of floating vessels for the transportation of property conducted by the agency of man, and a stream is navigable in fact only where it affords a channel for useful commerce and of practical utility to the public as such. The fact, if it be a fact, that there is water enough in places or at certain seasons of the year for rowboats or small launches, is not sufficient to make the stream navigable in fact. A stream of water, to be navigable in fact, must, in its ordinary and natural condition, furnish a highway over which commerce is or may be carried in the customary mode in which such commerce is conducted by water."

In Schulte vs. Warren, 218 Ill. 108, 75 N.E. 783 (1905), the issue of fishing rights in certain waters adjacent to the Illinois River in Mason County was involved. The plaintiff sought an injunction to prohibit fishing alleging that he owned the land on which the waters stood. Part of the water in question constitute a body of water known as Clear Lake which had been meandered by a government survey. The remainder of the inundated land was, in its natural state, mostly marsh and shallow back waters. However, as a result of building a dam at La Grange and the opening of the sanitary district canal the water level over this land was raised four or five feet making a large portion navigable in fact. The defendants argued that since these waters had become navigable in fact that the public had the right of navigation thereon and, as a consequence, the right to fish. The Court held that as to Clear Lake, which had been meandered by government survey and which was also in fact navigable in its natural state, the ownership of the bed of the Lake was in the State held in trust for all the people for the purpose of fishing and the like. As to the remainder of the waters which had in fact become navigable because of the building of the dam and sanitary canal, the public had the right of navigation but had no right to fish thereon without the permission of the plaintiff. The court stated:

"While the fish in the waters and the birds that fly over the land or swim on the surface of the waters are not the absolute property of the owner of the soil, the absolute right to hunt and fish in such waters and on the land was in him by the common law, which is the law of this State, unless we hold that it is not adapted to our condition. The decisions of this Court"

"have thus far recognized the existence of the common-law rule.--In Beckman vs. Kreamer 43 Ill. 447.92 Am.Dec. 146, the right to take fish in a small lake was involved. It does not appear whether the lake was meandered or whether it was navigable, but the court said: 'By the common law a right to take fish belongs so essentially to the right of soil in streams or bodies of water where the tide does not ebb and flow that, if the riparian proprietor owns upon both sides of such streams, no one but himself may come upon the limits of his land and take fish there; and the same rule applies so far as his land extends to wit, to the thread of the stream, where he owns upon one side only. Within these limits, by the common law, his right of fishery is sole and exclusive, unless restricted by some local law or well-established usage of the State where the premises may be situated.'"

"Braxon vs. Bressler, 64 Ill. 488 recognizes the rule that if waters are navigable in fact, the public have only a right of easement or passage upon them as a highway, but that other beneficial use is in the owner of the soil. In Washington Ice Co. vs. Shortall 010 Ill. 46, 40 Am. Rep. 196, the right of the riparian proprietor on a navigable stream to the ice in front of his land was asserted, and the court recognized the common law rights of fishery, saying: 'In Adams vs. Pease, 2 Conn. 481, it was held that the owners of land adjoining the Connecticut River above the flowing and ebbing of the tide have an exclusive right of fishery opposite to their land to the middle of the river, and that the public has an easement in the river as a highway, for passing and repassing with every kind of water craft.' In Fuller vs. Shedd, Supra, it was assumed that the right of fishery depends upon the ownership of the soil. In People vs. Budges, 142 111. 30, 31 N.E. 115, 16 L.R.A. 684, which was a prosecution for a violation of the act for the protection of a fish, it was considered that the owner of the soil has the exclusive right to take fish, subject to the legislative power to control and regulate the exercise of that right. While the precise question involved in this case was not decided in any of those cases, they are all to the effect that the common law relating to the question is in force in this State. The principal argument for appellees is that it is not in force because these waters are navigable in fact, and the right to hunt and fish is an incident to the right of navigation. The decisions of this court have not rested upon any such ground, but have uniformly been made to depend upon the ownership of the soil, and we see no reason why the right to fish or hunt should depend in any manner upon the existence o: non-existence of an easement of navigation.'

As to lakes and streams in Illinois which are navigable in fact, or which were meandered by government survey, the Illinois courts have held that the ownership of the bed of the lake or body of water is in the State of Illinois held in trudt for the people for the rights of fishin; and the like.

On the other hand, in Wisconsin, the Court in Muench vs. Public Service Commission, 261 Wis. 492, 53 N.W. 2d 514 (1952) stated:

"Art. IX, Sec. 1, of the Wisconsin Constitution, adopted by the Territorial Convension on February 17, 1848, and approved by the Act of Congress admitting Wisconsin into the Union, incorporated verbatim the wording of the Northwest Ordinance, with respect to navigable waters, such section reading as follows: 'The State shall have concurrent jurisdiction on all rivers and lakes bordering on this State so far as such rivers or lakes shall form a common boundary to the State and any other State or Territory now or hereafter to be formed, and bounded by the same; and the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the State as to the citizens of the United States, without any tax unjust or duty therefor ' -- (In) an -- Article -- (1946 Wisconsin Law Review 345) -- (it was) state: 'The ordinance of 1787 does not define the term navigable water. There was no rule of the Federal Government for the guidance of the states with respect to that matter. The ordinance merely provided that navi able waters were to be public highways, and thus states like Wisconsin and Oregon, which had vast forests of pine timber which would float, found it to their interests to adopt the saw-lo test, of navigability, while other states adopted different tests of navigability. The Atlantic states generally adopted the salt-water test of navigability, that is to say, any stream up to the point which the tide ebbs and flows is navigable. In North Carolina for example, the Yadkin River which has a vidth of 175 yards is non-navigable, whereas in Wisconsin any stream capable of floating a saw log during one or two weeks in the spring or other freshets is navigable --"

The United States Supreme Court in Barney vs. City of Keokuk, Ill., 1876, 94 U.S. 324, 24 L.Ed. 224, declared that the individual states have the right to determine for themselved the ownership of the land under navigable waters. At an early date in its history, the Wisconsin court put itself on record as favo ing the trust doctrine, that the state holds, the beds underlying navigable waters in trust for all of its citizens, subject only to the qualification that a riparian owner on the bank of an navigable stream has a qualified title in the stream bed to the center thereof.--

In the case of Willow River Club vs. Wade, 1898, 100 Wis. 86, 76 N.W. 273, 277 42 L.R.A. 305, the plaintiff club, a Minnesota corporation, owned two hundred acres of land along both sides of Willor River, a nonmeandered stream passing through St. Croix County and emptying into the St. Croix River at Hudson, which stream met the saw-log test of navigability. The defendant entered upon the stream in a rowboat from a public highway touching the stream and from such boat at a point in the stream where the plaintiff owned land on both sides caught ten trout, and the action was one to recover \$20 damages for the taking of these trout. This court held that although the plaintiff had title to the bed of the stream, nevertheless, it held the same in trust for the use of the public and declared: 'Since the defendant kept within the banks of the river -- within the limits of the public highway -- his fishing was nothing more than the exercise of a right common to the public. We must hold that the Willow River was a public navigable stream, and its defendant was not guilty of trespass by going upon it, as he did catching the fish in question.'

In Diana Shooting Club vs. Husting, 1914, 156 Wis. 261, 271, 145 N.W. 816, 820, the plaintiff incorporated club had a valid subsisting lease of certain lands abutting on Rock River in Dodge County, including Malzahn's Bay at the point the alleged trespass by the defendant, which purported to give the plaintiff exclusive hunting privileges upon such lands. On September 24, 1911, without trespassing upon the lands of the plaintiff, the defendant Paul O. Husting (later United States Senator from Wisconsin) entered his hunting boat floating upon the waters of Rock River, and with the aid of a pole and paddle propelled it down the river to the place of the alleged trespass for the purpose of shooting ducks, and pushed it into a growth of vegetation known as "flag" which frew from the bottom of the vater to a height of from four to five feet above the surface. At such time and place the vater below the defendant's boat was about twelve inches deep and his boat was floating upon the vater. For at least thirty-five years prior to the date of the alleged trespass, Rock River, including Malzahn's Bay, was a natural navigable body of water which had been navi ated by the public generally by skiffs and rowboats. This case is significant in that the navigability was established not through any commercial use, such as floating of logs, but through the use of shallow draft boats for purpose of recreation. This Court held that no trespass had been committed by the defendant, and stated: "Navigable waters are public waters and as such they should inure to the benefit of the public. They should be free to all commerce, for travel, for recreation, and also for hunting and fishing, which are now mainly certain forms of recreation. Only by so construing the provisions of our organic laws can the people reap the full benefit of the grant secure to them therein. This grant was made to them before the state had any title to convey to private parties, and it became a trustee of the people charged with the faithful execution of the trust created for their benefit. Riparian owners, therefore, took title to lands under navigable waters with notice of such trust, and subject to the burdens created by it. It was in ended that navigable waters should be navigable waters, and only by giving members of the public equal rights thereon so far as navigation and its incidents are concerned can they be said to be truly public. Hunting on navigable waters is lawful when it is confined strictly to such vaters while they are in a navigable stage, and between the boundaries of ordinary high-water marks. Then so confined it is immaterial what the character of the stream or water is. It may be deep or shallow, clear or covered with aquatic vegetation."

JURISDICTIONAL PROBLEMS ARISING FROM "LOCAL LAND USE" CONTROLS

One of the major limitations on effective Federal, State or regional planning is the centralization of the power of zoning in local government entities. Although historically and politically justified by the Jeffersonian principle of subsidiarity, recent incidents have dramatically, and perhaps untypically, demonstrated the enormous potential for jurisdictional conflicts arising out of this decentralized authority over land use controls. Thus the recent attempted

massive rezoning in the Fall of 1966 by the Lame-Duck County Council of Montgomery County, Maryland, permitting commercial development of more than 2,000 acres lying within the Rock Creek watershed, a tributary of the Potomac River (which President Johnson has said should be cleaned up and developed as a model for the country), would have directly destroyed the well-formulated plans of Federal and State agencies.

Several legal theories have been suggested to counterbalance the inherent jurisdictional problems arising out of local land-use control. Thus, the Secretary of the Interior, Stewart L. Udall, has suggested the possibility of developing a model state law that would assure a system of checks and balances by requiring at least two groups to approve zoning changes.

VI. RECOMMENDED LAWS OR CHANGES IN EXISTING LAWS TO CARRY OUT THE CONCEPT OF COMPREHENSIVE DEVELOPMENT OF RIVER BASIN WATER AND RELATED LAND RESOURCES

The jurisdictional problems set forth in Part V of this Appendix delineated areas of conflict that in some instances cannot be resolved structurally, e.g., the interaction of agencies. In other instances, solutions which suggest themselves are enshroused with such dramatic chances that they also appear to be difficult of being resolved structurally, e.g., state flood plain zoning as a solution to local land use control. The recommendations which follow are based on what could be achieved practically and are suggested by strong persuasive studies.

a. Strengthen the state judicial process.

The specific conclusions of the National Academy of Science in Waste Management and Control, p. 233-4, (1966) are appropos:

"---The judicial process as a means of alleviating the worst effects of pollution, and as a means of shifting some costs of pollution back on to the polluter, can be made more efficient for these purposes by legislation that would do the following:

- "(1) Establish the office of 'Ombudsman'- a pulbic official to receive and act on private complaints even to the extent of suing, at the Ombudsman's discretion, at public expense, on behalf of private complaints. Possibly where a specified number of persons request this intervention and show that they are adversely affected by the pollution, the intervention should be mandatory.
- "(2) Designate one or more courts in the state to hear all pollution cases so as to develop specialized judges and thus lessen the problems of interpretation of technical data and proof. The court in the county in which the State's pollution agencies are located seems a sensible choice for this function."

- "(3) Simplify the commencement of pollution--abatement actions and authorize he court, where appropriate, to broaden the area coverage of the action so as to include, if necessary, all polluters in a problem shed.
- be proven in so-called public nuisance cases brought by private individuals. The plaintiff should be required to prove only that he was damaged, not that his damage was different in kind.
- "(5) Authorize courts to appoint pollution control agencies or other public agencies as 'masters in chancery' to aid the court in the technical pollution aspects of the cases."
 - b. Explore the use and development of the problem shed approach.

The specific conclusions of the National Academy of Science in waste Management and Control, pp 225-226 (1966) again are apropos:

"The problem shed should be the basic planning and operating area. For a water pollution agency, the problem shed is usually a river basin. An example is the Delaware River Basin Commission, whose boundaries be along the ridge lines defining the basin, which consists of parts of four states. -- Generally, the problem shed agency should be compatible with a constituency that exists within the geographic area, with the governing body being designated by that constituency. The agency may be an intrastate, in erstate, or Federally organized regional organization including both state and Federal governments. Experimentation with various types of administrative arrangement, should be encouraged. For example, consideration should be given to providing explicitly for the direct representation of water user's interests in the direction and management of the problem shed agency."

The report earlier describes and comments on the Delaware River Basin Commission as follows: (p. 209-211)

"Organizations for regional water-quality management have a traditional, and, to an extent honored, standing in American administrative history-from the early, single-purpose sewage, irrigation, and drainage district to such modern multi-purpose and extensive regional organizations as the Ohio River Sanitary Commission (ORSANCO), the Delaware River Basin Commission (DRBC), and the Tennessec Valley Authority.

"Regional, multi-purpose organization commends itself especially to the economist or engineer, not solely because of the hydrodynamic unity of the river or drainage basin, but also because it offers an organizational device hospitable to optimizing methods.—As a model for study, the DRBC is useful both for what it suggests respecting a possible combination of organization forms and optimizing methods, and equally in suggesting the limits for such an approach."

"The culmination of parallel governmental and private efforts to find an appropriate structure for control and development of the basin's water resources, the DRBC derives its powers, formally, from a compact of four states and the Federal government. The Commission is given basin-wide jurisdiction and directed to plan comprehensively for the development of the water resources of the basin. It can allocate waters, set charges, fix standards, order the abatement of pollution, and conduct the necessary research and investigation to support these activities. The commission has, furthermore, authority to screen projects inconsistent with the basin plan, to acquire or build facilities, and to issue revenue bonds to implement the Commission's plans. Under the terms of the compact a substantial amount of authority is delegated, an authority that approaches a mandate for implementation on a regional basis of many of the optimizing methods directed toward economically and technically efficient water-quality management.

"If the array of delegated powers invites comment, the record of performance by the DRBD is also impressive. Politically, the DRBC has received valuable assistance from a powerful and effective constituency including the Water Resources Association of the Delaware River Basin, industry and community advisory groups, and a number of associations and interested publics that bridge lines of state jurisdiction. The Commission has an enviable record for leadership in the Delaware River Basin. It has also secured, over time, effective cooperation from Federal and state authorities in developing basin studies, coordinating the building of facilities and abating pollution. Technically, the Commission has acquired many of the program elements that could make a comprehensive basin-wide plan and its implementation practicable. It has made good use of a Delaware River water quality monitoring system developed by the U.S. Geological Survey, and a computer model developed by the U.S. Public Health Service.

"Experience under the compact suggests that a combination of regional multi-purpose and basin-wide organization with optimizing methods of economics and engineering are not only in priciple feasible, but eminently attainable. For the densely populated and intensive use area drained by the Delaware, the model is especially sensible.

"A working model can be valuable as an example for imitation. The example can also illuminate the conditions of success and effective limits for such a model.

"As a matter of history--the DRBC depends upon earlier local efforts--local watershed associations and endemic conservation ideologies contributed to and continue to play an important part in the success of the Commission. These facts suggest that a wide distribution of leadership, organization in depth, and locally hospitable traditions may be especially important for successful regional water quality management."

"A major limit upon the effectiveness of regional organization for pollution control in the United States is decentralized authority over land use controls.

"The constitutional jurisprudence and the politics of American federalism also imposes severe constraints upon a regional multi-purpose organization. The administration of water resources and pollution control in the United States has grown along dual lines: According to the basin and region on one hand, and from the common law, the state regulatory agency and Federal-State relations on the other. We live ith both systems, but 'living with' implies accommodation. Facing one way, an organization such as the DRBC depends upon the cooperation of state governors, and state pollution control agencies for the enforcement of abatement proceedings. Facing another way, the Commission negotiates with the Federal agencies to secure technical assistance and to promote construction or waste discharge policies that comply more or less roughly with the Commission's plans."

c. Correlation of hydrologic data with the legal machinery.

Serious students of the problems of water resource management have been disturbed by the gap existing between the fragmental legal view of water (surface water, diffused surface water, percolating water, and underground water law) and the unified view of science of the hydrologic cycle. Inevitably the suggestion has been made that the law should be reformed to reflect the unity of the hydrologic cycle. However, because grave constitutional questions would be raised, and because case law, from a practical view, has produced few cases really inconsistent with science inasmuch as they speak on an Ad hoc basis at the same point in the hydrologic cycle and because scientific studies of the hydrologic cycle are still in the infancy (witness the development of new techniques to follow the hydrologic cycle such as the use of atomic detectors to measure soil moisture and the use of radar to measure precipitation in a watershed rather than rain gauges or the recent study of Beaverdam Creek Basin of Maryland conducted by the U. S. Geological Survey showing that, in a four-week period, losses by evaporation from the soil and bodies of water and transpiration of plants equalled 63 percent of the volume of water delivered to the area by rain or the 1965 agreement by 101 nations to undertake a ten-year study known as the International Hydrological Decade), it would appear that a reformation of the law at this point would be premature. It would also appear that the most prudent posture at this time would be a continued understanding of the data presented by hydrology so that the laws and actions taken pursuant thereto are not based on false assumptions.

d. Organization structure of state administrative agencies as recommended by the Council of State Governments should be considered and evaluated.

In 1957, the Council of State Governments concluded a detailed study of administrative organization for water resource management in the states,

entitled "State Administration of Water Resources." Of particular relevancy in this excellent study are (1) the conclusions pertaining to the overall structure of these agencies and their internal management, and (2) the conclusions pertaining to the necessary factors for a coordinated state administrative structure for water resource programs.

The study evaluated reorganization studies and recommendations in the following terms (p. 59):

"The majority of recommendations have agreed, in general, upon the need to simplify existing water resource organization—to eliminate duplication of functions among agencies, to provide for a more logical grouping of functions, and to facilitate coordination of the various aspects of state water programs. Proposals to achieve these general goals vary in scope as they reflect geographic differences, adequacy of existing administrative machinery, and the social and political traditions within states—the proposals can be grouped in three categories: (1) those which recommend a planning and/or operating water agency with independent status; (2) those which recommend consolidation of major water functions in a division within a department of natural resources; and (3) those which recommend some type of coordinating board or council, without consolidation of the separate resource agencies."

And suggested the following observation on administrative organization (p.73-74):

"The extent of integration of water functions that is possible or desirable varies from state to state.---Coordinated administration of the vater resources of a state can be provided by consolidating interrelated functions dealing with water into a single, independent department. The creation of such a department will minimize costly and inefficient overlapping and duplication and provide clear lines of authority and responsibility for all water functions. It permits related functions to be administered as parts of a comprehensive program, and it provides for development of long range plans relating to all facets of the problem.

"Probably the separate department form of organization is best suited for states in which water resource activities constitute a major segment of the total state resource programs, where this is the case putting water resource administration into another department might result in an unwieldy, over-complex organization. Many goals sought by the functional consolidation of water resource activities into a separate department can be obtained by placing them within a unified natural resources department. In addition, beneficial use of all natural resources of a state may be fostered through a system of unified guidance and control. The management of one resource directly affects all other resources, and this scheme of organization permits development of a long range, integrated, correlated program."

The prototype agency, as part of the water resource program, would carry out the following functions: (1) hydrological data research; (2) overall water resource planning; (3) determination of the right to use water; (4) water pollution control; (5) review of Federal projects; (6) assistance to local governments; and (7) state developmental activities.

As to the internal management, the study concluded (pp. 74-75):

"Whether a state establishes a department of water resources or a water division within a department of natural resources, the question arises whether to provide for a single administrator or a board to head the department. As noted earlier, there has been a definite tendency toward the use of boards to administer water resource programs. Their weaknesses in directing the administration of an agency are well known. As one of the foremost students of public administration has said (Leonard O. White, Introduction to the Study of Public Administration, p. 82), --'--in general, the burden of proof is on the advocates of a board in preference to an administrator. Exigent demands for unity of purpose, for energy in execution, for well-defined responsibility, and for easy coordination press strongly in favor of a single official rather than for a cojoint authority.' It is possible to combine many of the advantages of the board and single administrator forms of organization. The compromise most widely adopted in the states is to have a single administrator with departmental advisory boards. This permits the expression of varied viewpoints and the participation of private citizens, perhaps representing interest groups, in policy formulation. It gives the administrator the opportunity to test his ideas by stating them to a critically constructive body and to receive in return fresh ideas and suggestions as to new areas of experimentation.

The major criticism of advisory boards or committees is the tendency of some to develop into futile discussion groups. This possibility can be reduced by the selection of strong committee members and appointment of an administrator who can stimulate and benefit from the active analysis and suggestions of an able advisory group.

"Because of the extent of regulatory powers that are assigned to water resource agencies, it is necessary to provide for hearing boards to perform certain required duties. It may be desired for a board, following study and hearings, to recommend to the administrator regulations of general applications. A board should make certain specific applications of general rules of hear appeals from decisions made by administrative agents. These duties can be assigned to a general advisory board for a department or a division, or to specialized departmental hearing boards."

e. Establish personnel and budgetary guidelines to evaluate the adequacy of state water resource management.

A recent study conducted by the Public Administration Service for the Division of Water Supply and Pollution Control, Public Health Service, U.S.

Department of Health, Education, and Welfare, culminating in an article entitled "Staffing and Budgetary Guidelines for State Water Pollution Control Agencies," appearing in the Journal Water Pollution Control Federation (January 1965), suggested possible standards to evaluate state ater pollution control programs in terms of personnel complements and budgetary support. Although limited in scope and tentative in nature, the study does raise the broad issues of the need for planned guidelines for two vital ingredients (people and money) of a successful water resource management program.

f. Careful consideration must be given to "revenue sharing plans" and its implications for water resource management.

Revenue sharing between the Federal government and the states was first proposed by Professor Walter Wolfgang Heller, presently at the University of Minnesota, while he was chairman of the President's Council of Economic Advisors in 1964. The idea was subsequently refined in a lecture entitled "Strengthening the Fiscal Base of our Federalism," delivered at Harvard's Godkin Lectures in March 1966 (New Dimensions of Political Economy, Harvard University Press, 1966) where he defined the plan as:

"In capsule, the revenue-sharing plan would distribute a specified portion of the Federal individual income tax to the states each year on a per capita hasis, with next to no strings attached. This distribution would be over and above existing and future conditional grants." The key justification for the plan is:

"The Internal Revenue Service is an inherently more efficient tax administering agency than those of the States.--the round trip to Washington would cost less than a round trip to the state house or city hall."

The acceptance of this idea, essentially economic in nature, has produced numerous political variations among the fifty states and 80,000 units of local government as witness the 25 versions of it presently pending before the 90th Congress. Obviously, one of the important factors in its reception has been the fact that four-fifths of state and local revenue comes from property and sales taxes. Another important factor is a growing concern to bring government closer to the people to avert what has been called a Federal crisis as indicated by the testimony of the Secretary of Health, Education, and Welfare, John W. Gardner, in his appearance in the Fall of 1966 before the Senate Subcommittee on Intergovernmental Kelations, when he stated:

"In almost every domestic program we are encountering crises of organization. Coordination among Federal agencies leaves much to be desired. Communications between the various levels of government--Federal, state, local--is casual and ineffective."

Professor Heller's basic plan is in addition to the more than 400 grant-in-aid programs since as he noted:

"Conditional grants for specific functions play an indispensable role in our Federalism. They unite federal financing with state-local performance in a fiscal marriage of convenience, necessity, and opportunity."

Professor Heller also noted that:

"---putting the grants in conditional form enables the Federal government to apply national minimum standards, insure financial participation at the state and local levels through matching requirements, and take both fiscal need and fiscal capacity into account."

Recent events suggest two distinct problems the plan had encountered:

(1) How responsible are the states so as to justify the turnover of unrestricted Federal funds? In this regard, the testimony of Professor Alan K. Campbell, Director of the Metropolitan Studies Program at Syracuse University, in his appearance before the Senate Subcommittee on Intergovernmental Relations, indicates insufficient data:

"The academic community has begun only recently the serious research necessary to a full understanding of the nature of contemporary federalism. For a great variety of reasons political scientists, economists, and sociologists, over the past thirty years, have concentrated their research efforts on the national government and on international affairs."

(2) What provision will be made for direct local participation? Presently municipalities receive thirty percent of Federal grants-in-aid directly and their lobby, the National League of Cities, is strongly opposed to any plan turning over unrestricted Federal funds to states without direct participation by the municipalities.

In any event, in whatever form the plan may emerge (and all indications point to an ultimate legislative emergency), careful thought must be given to the practical implications this will have on water resource management and alternative flexible plans should be formulated to maximize the benefits which could result for water resource management. Two desiderata should be carefully considered in this formulation: The principle enunciated by President Lyndon B. Johnson in his State of the Union message that "Only a total working partnership among Federal, State, and local Governments can succeed;" and the principle enunciated by Professor Heller that,

"The good life will not come, ready-made, from some Federal assembly line. It has to be custom built, engaging the effort and imagination and resourcefulness of the community."

VII SUMMARY

Science may one day find practicable solutions to all our water problems. But urgent problems cannot be solved by nonexisting solutions and a blind faith in tomorrow's technology is no substitute for action today. The question we have explored in this Appendix "N" is whether our present legal machinery is conducive to maximum utilization of the technical capabilities we already possess to meet our water problems, or whether it is an obstacle to curative and preventive action. In exploring this question, we have tried only to describe the present legal machinery and its operation, and to suggest changes which might be made. Whether any changes will or should be made is, of course, for the people to determine through their elected representatives.

There were two distinct aspects to our discussion of state and Federal laws, policies, and programs. The first was the substantive aspect, the nature of the laws, policies, and programs themselves. The second was the administrative aspect, the method by which these laws, policies, and programs are implemented.

Summarizing the administrative aspect first, the picture portrayed is one of chaos moving toward order. Administrative authority over water resources has been dispersed among a myriad of agencies at all levels of the Government. The resulting jurisdictional problems have been virtually insurmountable. However, within each level of Government there has been a marked, and presumably salutary, movement toward unification, while between each level of Government there has been a marked improvement in cooperation. In most instances, intra-level unification has been attempted through the creation of a coordinating committee composed of the heads of extant agencies, rather than by placing all authority over water resources in a single agency. An exception to this is to be found particularly at the local level where a trend toward the establishment of broad-powered conservancy districts can be discerned. Unfortunately, cooperation between the various levels of the Government is not so easily attained as unification within each level. It is not possible to create a spirit of cooperation by dint of legislative decree. This laudable goal can only be achieved voluntarily, through the enlightened realization that cooperation must exist if our water problems are to be solved within the framework of a Federal-republican Government. Meanwhile, state and Federal leglislatures could perhaps make cooperation easier by more clearly demarcating areas of primary responsibility. To some degree, this had been done. Witness, for example, recent declarations by the United States Congress that the states alone and in concert should have primary responsibility for water resource management. These Congressional policy statements are vague and they are hedged with implied exceptions, but they are a beginning.

Coming finally to the substantive aspect, we have seen that policy making and program planning is circumscribed by the riparian doctrine which, to varying degrees, is still influential in the Grand River Basin.

With many exceptions and refinements, this 19th Century doctrine generally states that only a riparian owner has the right to the use of water under, on, or abutting his land. It is purely a political question whether riparian rights should be abolished or regulated in favor of the public interest. Reasonable men may differ as to whether the right of a riparian owner to use water should be accorded the sanctity of a vested property right, not to be taken without compensation. Almost without exception, however, those states which have experienced water scarcity have eschewed the riparian doctrine in favor of regulation. And at least to the extent that the riparian owner's existing user is not taken away, such regulation has been everywhere upheld as constitutional. We can only conclude, therefore, that as water scarcity moves east, water regulation may very well move east as well.

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APPENDIX N

WATER LAWS

ATTACHMENTS

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APPENDIX N

WATER LAWS

ATTACHMENT 1

REGIONAL AND INTERSTATE AGENCIES

Comprehensive Planning Study of the Grand River Basin, Michigan

INTERNATIONAL JOINT COMMISSION -- UNITED STATES AND CANADA

The Commission was organized in 1911 pursuant to the Treaty of 1900 between the United States and Great Britain. The purpose of the Commission is to prevent disputes regarding the use of boundary waters, settle questions between the United States and Canada involving rights, obligations, or interests of either, and to make provisions for the adjustment and settlement of all such questions which may arise. The Commission has six members, three appointed by the President of the United States, and three appointed by the Government of Canada. The Commission has jurisdiction over all cases involving use, obstructions, or diversion of boundary waters; waters flowing from boundary waters; and waters at a lower level than the boundary in rivers flowing across the boundary.

Their permission is required for the construction and maintenance of any works that would raise the natural level of boundary waters and for works that would back rater above the natural level at the boundary in waters crossing the boundary. They also act to prevent pollution of water and air under their jurisdiction.

The Commission works through a series of boards, each assigned a special mission. There are four boards in operation in the Grand River Basin area: the International Lake Superior Board of Control, where the Corps North Central Division Engineer is the only United States representative; an Air Pollution Board and Water Pollution Board(s), neither of which the Corps is directly involved; and an International Great Lakes Levels Board where the Corps North Central Division Engineer is a United States representative. The International Lake Superior Board of Control has no subcommittees, but the International Great Lakes Levels Board functions through a working committee with five subcommittees, Shore Property, Power, Navigation, Regulation, and Control Structures. The Corps North Central Division Engineer serves as the United States Chairman of the Working Committee.

GREAT LAKES COMMISSION

The Commission was formed in 1955 to administer the Great Lakes Interstate Compact, entered into by the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. The Commission has powers to: Obtain water resources data; recommend uses and conservation of the Great Lakes Basin's water resources; consider improvements relating to water resources, especially navigation, port facilities, and the fisheries of the Basin; recommend policies and uniform laws on water resources; prepare and publish information; recommend agreements between the United States and Canada; and foster cooperation between the member states and adjacent provinces in Canada. Representation on the Commission is limited to three to five members appointed from each of the participating states. The two Canadian provinces (Ontario and Quebec) may be admitted as full commission members but, to date, have elected to participate in the activities without formally jointing the Commission.

The Commission has a full time professional staff with offices located in Ann Arbor, Michigan. The Commission activities have been limited to providing information on special studies, continuing counsel, coordinating states' views and promoting water resource programs.

No formal tie exists between this Commission and any other regional planning groups. Informal ties do exist from common concern for sound water resource planning for the Great Lakes Region and participation in other planning groups by members of this commission.

GREAT LAKES BASIN COMMISSION

Great Lakes Basin Commission was created by Executive Order No. 11345, dated April 20, 1967, under Title II of the Water Resources Planning Act of 1965. The Commission's function is to: (1) Serve as principal agency for the coordination of Federal, state, interstate, local and nongovernmental plans for the development of water and related land resources in the Basin; (2) Prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, state, interstate, local, and nongovernmental development of water and related resources; Provided, That the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the Basin; (3) Recommend long-range schedules of priorities for the collection and anlysis of basic data and for the investigation, planning, and construction of projects; and (4) Foster and undertake such studies of water and related land resources problems in the Basin as are necessary in the preparation of the plan described in Clause (2) above.

The Commission has jurisdiction over those portions of the Great Lakes Basin with in the United States. The entire State of Michigan and portions of Minnesota, Wisconsin, Illinois, Ohio, Pennsylvania, and New York are involved. The membership of the Commission is made up of a Chairman, appointed by the President, and a member from each of the following departments or agencies: Agriculture, Army, Commerce, Health, Education and Welfare, Housing and Urban Development, Interior, Justice, Transportation, and Federal Power Commission, and each of the states noted above. Presently the representative of the Department of Agriculture is the designated Alternate Chairman in the absence of a Presidential appointment replacement to the first chairman.

Coordination and cooperation with other concerned groups, such as, the Great Lakes Commission and the International Joint Commission, will be handled, for the present, by an Ad hoc advisory committee. The Commission has a full time professional staff, and has established offices in Ann Arbor, Michigan.

APPENDIX N

WATER LAWS

ATTACHMENT 2

LOCAL ORGANIZATIONS

Comprehensive Planning Study of the Grand River Basin, Michigan

GRAND RIVER BASIN COORDINATING COMMITTEE

The Coordinating Committee was established at the very outset of the basin study and consists of one representative from the Department of the Army; Agriculture; Health, Education, and Welfare; Commerce; Interior; the Federal Power Commission; and the State of Michigan.

The Corps of Engineers has been designated as the responsible or leadership agency in the study with the Detroit District Engineer permanently assigned as the Chairman of the Committee.

The Coordinating Committee meets at about six-month intervals, to give general direction to the study; to review and consider the progress being made on the study; to encourage full and continuing exchange of views during the study; to resolve study problems; and to hear reports from the various subcommittees which are active all the time, as necessary.

Five such working subcommittees have been formed to date. These are: The Economic Base Study Informal Advisory Board; the Hydraulic and Hydrology Subcommittee; the Fish and Wildlife and Recreation Advisory Subcommittee; the Basin Plan Formulation Subcommittee; and the Hydrology Task Force.

This study deals with a specific area within the Great Lakes Basin and the study findings are expected to be used by all other regional planning groups. Common planning objectives along with common participating agencies, often the same agency personnel, bonds this Committee with the other regional planning groups. However, no formal committee to committee inter-connections exists at the present.

MICHIGAN GRAND RIVER WATERSHED COUNCIL

The Council was organized June 1966 under the provisions of Michigan Act 253 of 1964 (the Local River Management Act) to promote cooperation among local governments in a water management program in the Grand River Watershed. The Water Resources Commission is embodied to monitor the Council's actions for the State of Michigan.

Eligibility for membership in the Council is determined as follows: (1) each municipal unit (city, village, or township) which uses the Grand River or tributaries for either water supply or waste disposal is entitled to one delegate for each 20 thousand persons or major fraction thereof; (2) if 15 percent or more of the land area of a county is within the Basin, the county is entitled to one delegate plus an additional delegate for each 20 thousand persons or major fraction thereof residing within townships located primarily within the Basin; (3) in addition, the Council thereby constituted may, as a body, invite other governmental authorities to appoint delegates to the Council.

Over one hundred delegates can be appointed by the fifty-nine governmental units in the Basin. They maintain membership in the Council on a voluntary basis. The State of Michigan has since stated that the Council would be adequately represented at Coordinating Committee meetings through its representatives and a standing invitation to the designated representative of the Watershed Council to attend future Coordinating Committee meetings was adopted without dissent by the members of the committee.

It is further noted that the Watershed Council, or a part of it, could transform itself into a river management district under the same act and function as an action agency if it wished to undertake construction. Its power of taxation would, however, be only indirect, through its member governments.

The Grand River Watershed Council is composed of the grass root elements of the communities and serves the purpose of procuring local interests and informing the public of the needs and problems within the Basin.

PREFATORY NOTE

The statutes relating to water in this publication were prepared from the text of the Compiled Laws of 1948 as altered by legislative enactments through the 1966 regular session, as maintained by the Legislative Service Bureau. This material was made available to the Joint Committee on Water Resources Planning pursuant to the provisions of Act No. 412 of the Public Acts of 1965.

The statutes are arranged according to their 1948 compilation section numbers, with the exception of the statutes which appear under Miscellaneous statutes at the end of this book. The number of the section at the top of each left hand page and the last section appearing on each right hand page has been placed on the outside corner of each running head in heavy type and the page number appears on the inside corner. The user will find any section between these numbers appearing on facing pages.

Catch lines and history notes have been brought up to date with citations to the Michigan Statutes Annotated placed in brackets at the end of the catch lines. None of the material in bold face type or notes is a part of the statute as enacted by the Legislature.

PREFACE

As an ever surging economy exerts intensifying pressures on Michigan's supply of water, it is clear that a corresponding increasing amount of time of the Legislature will be devoted to preserving and enhancing this most valuable natural resource. As part of the work of the Joint Legislative Committee on Water Resources Planning, and primarily to fill an apparent need of individual legislators, this compilation of water-related laws was prepared with the assistance of the Legislative Service Bureau.

The exercise of compilation served to confirm what many water experts have maintained for a long time—that Michigan's water law has been developed in a "crazy quilt, patch-work" manner. It has been suggested from a number of quarters that our laws are in need of a comprehensive appraisal and overhaul. In the event that such a project is undertaken, it is believed that this document would serve well as the basic tool for any attempt at codification.

Although intended for the use of legislators, it is believed that this pulling together of water statutes will additionally be of value to state administrators and to local officials who deal with water problems.

In preparing this document, all statutes touching on water were compiled. However, since the compilation was directed at water resources management, a few statutes dealing with matters with which water was incidental have not been included. For example, although fish exist in waters, statutes detailing sports fishing licensing restrictions were not printed. However, most statutes that have been excluded have been listed separately in the Table of Contents.

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MICHIGAN LAWS RELATING TO WATER

CONSTITUTION OF THE STATE OF MICHIGAN OF 1963

Preamble.

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE 4

Legislative Branch

Public health and general welfare.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Natural resources; conservation, pollution, impairment, destruction.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

ARTICLE 7

Local Government

Navigable streams, permission to bridge or dain.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

County intervention in public utility service and rate proceedings.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Highways, bridges, culverts, airports; road tax limitation.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Township public utility franchises.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Public service facilities.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light,

heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Services outside corporate limits.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Public utilities; acquisition, franchises, sale.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Metropolitan governments and authorities.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Governmental functions and powers; joint administration, costs and credits, transfers.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to; enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Officers, eligibility.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Highways, streets, alleys, public places; control, use by public utilities.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

GREAT LAKES COOPERATION

Act 89, 1954, p. 106; Eff. Aug. 13.

AN ACT enabling the state of Michigan to cooperate with other states hordering on the Great Lakes and the province of Ontario, in regard to all matters and things affecting this state in the management, control and supervision of the waters in the Great Lakes, including the marine life therein; authorizing and empowering the governor of this state to execute an agreement to enable this state to become and continue to be a member of the interstate compact concerning said waters.

The People of the State of Michigan enact:

3.601 Cooperation with states, etc., bordering on Great Lakes; agreement. [M.S.A. 4.128(1)]

Sec. 1. So that the state of Michigan can consult and cooperate with the other states bordering on the Great Lakes and the province of Ontario in regard to all matters and things affecting the rights and interests of this state and such other states and province in the management, control and supervision of the waters of the Great Lakes including the marine life therein, the governor of the state of Michigan is hereby authorized and empowered for and in the name of the state of Michigan to execute an agreement or agreements with any or all the other states bordering on the Great Lakes and the province of Ontario in conformity with the terms, conditions and provisions contained in this act.

3.602 Compact; ratification. [M.S.A. 4.128(2)]

Sec. 2. Such compact shall become operative whenever, in addition to Michigan any 3 of the states of Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, New York and Minnesota shall have ratified it and congress has given its consent, if needed. The province of Ontario may become a party to this compact by taking such action as its laws and the laws of the Dominion of Canada may prescribe for ratification.

3.603 Same; contents; authorization. [M.S.A. 4.128(3)]

Sec 3. In addition to other pertinent and necessary provisions which are in consonance with the expressed purposes of the compact as herein provided, such a compact shall contain the following terms, conditions and provisions: Said compact shall authorize the compacting parties to do all things reasonably necessary for carrying out the purposes of this act but such a compact shall be entered into solely for the purpose of empowering the duly appointed representatives of said states and the province of Ontario to meet, consult with and make recommendations to their respective governors, legislative bodies or governmental agencies and to the international joint commission established under the treaty of 1909 between the United States and Great Britain with respect to the management, control and supervision of the waters of the Great Lakes including the marine life therein. However, it is distinctly provided that any such recommendation and any decision or agreement arrived at among the compacting parties shall at no time have any force of law or be binding on any compacting party.

3.604 Great Lakes compact commission, membership, oath. [M.S.A. 4.128(4)]

Sec. 4. Each compacting party shall have the right to designate 5 representatives to such interstate compact commission to be known as the Great Lakes compact commission. For the state of Michigan the attorney general, the director of conservation, and the executive secretary of the water resources commission shall be members of the Michigan representation by virtue of their offices; the governor shall appoint, with the advice and consent of the senate, the remaining 2 members who shall come from groups or organizations interested in or affected by the Great Lakes, which members shall serve at his pleasure and who, before entering upon the performance of their office, shall take and subscribe to the constitutional oath of office.

3.605 Same; effective date; meeting; officers, duties; quorum. | M.S.A 4.128(5)|

Sec. 5. The compact herein provided shall become effective upon the adoption of laws by the states referred to in section 2 in conformity with the provisions of this act. When, in addition to Michigan, any 3 of the states of Wisconsin, Illinois, Indiana, Ohio, Pennsylvania. New York and Minnesota have adopted such laws and the congress of the United States has given its consent, if needed, the designated representatives of the Great Lakes compact commission shall meet upon the call of any governor of any of the ratifying states or the legally designated governmental official of the province of Ontario. At such meeting or at any subsequent meeting the duly designated representatives shall adopt a compact agreement not inconsistent in any way with this act and containing the necessary provisions for enabling the commission to carry out the purposes of this act. At such meeting or at subsequent meetings, the representatives composing such commission shall select a chairman and a secretary from among their numbers and such other officers as to them may seem expedient and shall prescribe the duties of such officers. A 2/3 majority of all representatives designated shall be sufficient to form a quorum for the transaction of business. Said commission shall meet from time to time or at such places or locations as it shall seem necessary and proper or shall meet upon the call of the chairman and such call shall designate the time and place of meeting and the purpose thereof.

3.606 Record of meetings and proceedings; report. [M.S.A. 4.128(6)]

Sec. 6. Said commission shall keep a written record of its meetings and proceedings and shall annually make a report thereof to be submitted to the duly designated official of each compacting party.

3.607 Expenses. [M.S.A. 4.128(7)]

Sec. 7. Each compacting party shall pay for the expenses of its representatives on said commission and each compacting party shall pay to the secretary of the commission a pro rata share of the expenses of said commission. No expenditures shall be authorized under the provisions of this act unless and until moneys shall be appropriated therefor by the legislature.

GREAT LAKES BASIN COMPACT

Act 28, 1958, p. 27; Imd. Eff. April 14

AN ACT ratifying, enacting into law, and entering into the great lakes basin compact; providing for the representation of this state on the commission created thereby; providing for the cooperation of agencies of this state with said commission; and providing financial contribution to the support of said commission.

The People of the State of Michigan enact:

3.651 Great lakes basin compact; contents. [M.S.A. 4.129(1)]

Sec. 1. The great lakes basin compact is hereby ratified, enacted into law and entered into by this state as a party thereto with any other state or province which, pursuant to article II of said compact, has legally joined therein in the form substantially as follows:

GREAT LAKES BASIN COMPACT

The party states solemnly agree:

Article I. Purpose

The purposes of this compact are, through means of joint or cooperative action:

To promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the Great Lakes Basin (hereinafter called the Basin).

To plan for the welfare and development of the water resources of the Basin as a whole as well as for those portions of the Basin which may have problems of special concern.

3. To make it possible for the states of the Basin and their people to derive the maximum benefit from utilization of public works, in the form of navigational aids or otherwise, which may exist or which may be constructed from time to time.

4. To advise in securing and maintaining a proper balance among industrial, commercial, agricultural, water supply, residential, recreational, and other legitimate uses of the water resources of the Basin.

5. To establish and maintain an intergovernmental agency to the end that the purposes of this compact may be accomplished more effectively.

Article II. Enactment and Effective Date

A. This compact shall enter into force and become effective and binding when it has been enacted by the legislatures of any 4 of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and thereafter shall enter into force and become effective and binding as to any other of said states when enacted by the legislature thereof

B. The Province of Ontario and the Province of Quebec, or either of them, may become states party to this compact by taking such action as their laws and the laws of the government of Canada may prescribe for adherence thereto. For the purpose of this compact the word "state" shall be construed to include a Province of Canada.

Article III. The Basin

The Great Lakes Commission created by Article IV of this compact shall exercise its powers and perform its functions in respect to the Basin which, for the purposes of this compact, shall consist of so much of the following as may be within the party states:

- 1. Lakes Erie, Huron, Michigan, Ontario, St. Clair, Superior, and the St. Lawrence River, together with any and all natural or man-made water interconnections between or among them.
- 2. All rivers, ponds, lakes, streams, and other watercourses which, in their natural state or in their prevailing condition, are tributary to Lakes Erie, Huron, Michigan, Ontario, St. Clair, and Superior or any of them or which comprise part of any watershed draining into any of said lakes.

Article IV. The Commission

A. There is hereby created an agency of the party states to be known as The Great Lakes Commission (hereinafter called the Commission). In that name the Commission may sue and be sued, acquire, hold and convey real and personal property and any interest therein. The Commission shall have a seal with the words "The Great Lakes Commission" and such other design as it may prescribe engraved thereon by which it shall authenticate its proceedings. Transactions involving real or personal property shall conform to the laws of the state in which the property is located, and the Commission may by bylaws provide for the execution and acknowledgment of all instruments in its behalf.

B. The Commission shall be composed of not less than 3 commissioners nor more than 5 commissioners from each party state designated or appointed in accordance with the law of the state which they represent and serving and subject to removal in accordance with

such law

C. Each state delegation shall be entitled to 3 votes in the Commission. The presence of commissioners from a majority of the party states shall constitute a quorum for the transaction of business at any meeting of the Commission. Actions of the Commission shall be by a majority of the votes cast except that any recommendations made pursuant to Article VI of this compact shall require an affirmative vote of not less than a majority of the votes cast from each of a majority of the states present and voting.

D. The commissioners of any 2 or more party states may meet separately to consider problems of particular interest to their states but no action taken at any such meeting shall be deemed an action of the Commission unless and until the Commission shall specifically

approve the same.

E. In the absence of any commissioner, his vote may be cast by another representative or commissioner of his state provided that said commissioner or other representative casting said vote shall have a written proxy in proper form as may be required by the Commission.

F. The Commission shall elect annually from among its members a chairman and vice-chairman. The Commission shall appoint an Executive Director who shall also act as secretary-treasurer, and who shall be bonded in such amount as the Commission may require. The Executive Director shall serve at the pleasure of the Commission and at such compensation and under such terms and conditions as may be fixed by it. The Executive Director shall be custodian of the records of the Commission with authority to affix the Commission's official seal and to attest to and certify such records or copies thereof.

G. The Executive Director, subject to the approval of the Commission in such cases as its bylaws may provide, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions. Subject to the aforesaid approval, the Executive Director may fix their compensation, define their duties, and require

bonds of such of them as the Commission may designate.

H. The Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may borrow, accept, or contract for the services of personnel from any state or government or any subdivision or agency thereof, from any intergovernmental agency, or from any institution, person, firm or corporation; and may accept for any of the Commission's purposes and functions under this compact any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from any state or government or any subdivision or agency thereof or intergovernmental agency or from any institution, person, firm or corporation and may receive and utilize the same.

I. The Commission may establish and maintain 1 or more offices for the transacting of its business and for such purposes the Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may acquire, hold and dispose of real and per-

sonal property necessary to the performance of its functions.

J. No tax levied or imposed by any party state or any political subdivision thereof shall be deemed to apply to property, transactions, or income of the Commission.

K. The Commission may adopt, amend and rescind bylaws, rules and regulations for the conduct of its business.

L. The organization meeting of the Commission shall be held within 6 months from the effective date of this compact.

M. The Commission and its Executive Director shall make available to the party states any information within its possession and shall always provide free access to its records by duly authorized representatives of such party states.

N. The Commission shall keep a written record of its meetings and proceedings and shall annually make a report thereof to be submitted to the duly designated official of each

party state.

O. The Commission shall make and transmit annually to the legislature and governor of each party state a report covering the activities of the Commission for the preceding year and embodying such recommendations as may have been adopted by the Commission. The Commission may issue such additional reports as it may deem desirable.

Article V. Finance

A. The members of the Commission shall serve without compensation, but the expenses of each commissioner shall be met by the state which he represents in accordance with the law of that state. All other expenses incurred by the Commission in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided by this compact, shall be paid by the Commission out of its own funds.

B. The Commission shall submit to the executive head or designated officer of each party state a budget of its estimated expenditures for such period as may be required by the

laws of that state for presentation to the legislature thereof.

C. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Detailed commission budgets shall be recommended by a majority of the votes cast, and the costs shall be allocated equitably among the party states in accordance with their respective interests.

D. The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under Article $IV_{\parallel}(H)$ of this compact, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligations to be met in whole or in part in this manner. Except where the Commission makes use of funds available to it under Article $IV_{\parallel}(H)$ hereof, the Commission shall not incur any obligations prior to the allotment of funds by the party states adequate to meet the same.

E. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under the bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual

report of the Commission.

F. The accounts of the Commission shall be open at any reasonable time for inspection by such agency, representative or representatives of the party states as may be duly constituted for that purpose and by others who may be authorized by the Commission.

Article VI. Powers of Commission

The Commission shall have power to:

A. Collect, correlate, interpret, and report on data relating to the water resources and the use thereof in the Basin or any portion thereof.

B. Recommend methods for the orderly, efficient, and balanced development, use, and conservation of the water resources of the Basin or any portion thereof to the party states and to any other governments or agencies having interests in or jurisdiction over the Basin or any portion thereof.

C. Consider the need for and desirability of public works and improvements relating

to the water resources in the Basin or any portion thereof.

D. Consider means of improving navigation and port facilities in the Basin or any portion thereof. E. Consider means of improving and maintaining the fisheries of the Basin or any portion thereof.

F. Recommend policies relating to water resources including the institution and altera-

tion of flood plain and other zoning laws, ordinances and regulations.

G. Recommend uniform or other laws, ordinances, or regulations relating to the development, use and conservation of the Basin's water resources to the party states or any of them and to other governments, political subdivisions, agencies, or intergovernmental bodies having interests in or jurisdiction sufficient to affect conditions in the Basin or any portion thereof.

H. Consider and recommend amendments or agreements supplementary to this compact to the party states or any of them, and assist in the formulation and drafting of such

mendments or supplementary agreements.

 Prepare and publish reports, bulletins, and publications appropriate to this work and fix reasonable sale prices therefor.

J. With respect to the water resources of the Basin or any portion thereof, recommend

agreements between the governments of the United States and Canada.

K. Recommend mutual arrangements expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of Canada including but not limited to such agreements and mutual arrangements as are provided for by Article XIII of the Treaty of 1909 Relating to Boundary Waters and Questions Arising Between the United States and Canada. (Treaty Series, No. 548).

L. Cooperate with the governments of the United States and of Canada, the party states and any public or private agencies or bodies having interests in or jurisdiction sufficient to

affect the Basin or any portion thereof.

M. At the request of the United States, or in the event that a Province shall be a party state, at the request of the government of Canada, assist in the negotiation and formulation of any treaty or other mutual arrangement or agreement between the United States and Canada with reference to the Basin or any portion thereof.

N. Make any recommendation and do all things necessary and proper to carry out the powers conferred upon the Commission by this compact; provided that no action of the Commission shall have the force of law in, or be binding upon, any party state.

Article VII. State Action

Each party state agrees to consider the action the Commission recommends in respect to:

- A Stabilization of lake levels
- B. Measures for combating pollution, beach erosion, floods, and shore inundation.
- C. Uniformity in navigation regulations within the constitutional powers of the states.
- D. Proposed navigation aids and improvements.
- E. Uniformity or effective coordinating action in fishing laws and regulations and cooperative action to eradicate destructive and parasitical forces endangering the fisheries, wild life and other water resources.
 - F. Suitable hydroelectric power developments.
- G. Cooperative programs for control of soil and bank erosion for the general improvement of the Basin.
 - H. Diversion of waters from and into the Basin.
- Other measures the Commission may recommend to the states pursuant to Article VI of this compact.

Article VIII. Renunciation

This compact shall continue in force and remain binding upon each party state until renounced by act of the legislature of such state, in such form and manner as it may choose and as may be valid and effective to repeal a statute of said state; provided that such renunciation shall not become effective until 6 months after notice of such action shall have been officially communicated in writing to the executive head of the other party states.

Article IX. Construction and Severability

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or in the case of a Province, to the British North America Act of 1867 as amended, or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any state, agency, person or circumstance shall not be affected thereby, provided further that if this compact shall be held contrary to the constitution of the United States, or in the case of a Province, to the British North America Act of 1867 as amended, or of any party state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

3.652 Same; commissioners, oath, expenses, voting rights. [M.S.A. 4.129(2)]

Sec. 2. In pursuance of article IV of the compact, there shall be 5 commissioners on the great lakes commission (hereinafter called the commission) from this state. Each commissioner is hereby given all of the powers conferred on a commissioner by the compact or which shall be necessary or incidental to the performance of his functions as such a commissioner. For the state of Michigan the attorney general, the director of conservation and the executive secretary of the water resources commission shall be members of the Michigan representation by virtue of their offices. The governor shall appoint, with the advice and consent of the senate, the remaining 2 members who shall come from groups or organizations interested in or affected by the great lakes, which members shall serve at his pleasure and who, before entering upon the performance of their office, shall take and subscribe to the constitutional oath of office. The 2 members appointed by the governor shall serve without pay, but all commissioners shall receive necessary expenses incurred in the performance of their duties. Each commissioner shall have the right to cast three-fifths of a vote whenever a vote is required by the terms of the compact.

3.653 Same; cooperation by state officers. [M.S.A. 4.129(3)]

Sec. 3. All officers of this state are hereby authorized and directed to do all things falling within their respective jurisdictions necessary to or incidental to the carrying out of said compact in every particular, it being hereby declared to be the policy of this state to perform and carry out the said compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the state government or administration of this state are hereby authorized and directed at reasonable times and upon request of said commission to furnish the said commission with information and data possessed by them or any of them and to aid said commission by loan of personnel or other means lying within their legal powers respectively.

3.654 Same; budget, appropriations. [M.S.A. 4.129(4)]

Sec. 4. The budget of the estimated expenditures of the commission shall be submitted to the director of conservation for such period and in form as shall be required by said official. Neither the compact nor this act shall be construed to commit, or authorize the expenditure of, any funds of the state of Michigan except in pursuance of appropriations hereafter made by the legislature.

3.655 Same; transmission of copy of act and compact to other parties. [M.S.A. 4.129(5)]

Sec. 5. The governor is hereby authorized and directed to transmit a duly authenticated copy of this act and the compact contained herein to each jurisdiction now party to the compact and to each jurisdiction which subsequently shall become party to the compact.

EXECUTIVE ORGANIZATION ACT OF 1965

Act 380, 1965, p. 750; Imd. Eff. July 23.

AN ACT to organize the executive and administrative agencies of state government; to establish principal departments and department heads; to define the powers and duties of the principal departments and their governing agents; to allocate executive and administrative powers, duties, functions, and services among the principal departments; to provide for a method for the gradual implementation of the provisions of this act and for the transfer of existing funds and appropriations of the principal departments to herein created and established.

The People of the State of Michigan enact:

CHAPTER 1.

16.101 Executive organization act of 1965; short title. [M.S.A. 3.29(1)]

Sec. 1. This act shall be known and may be cited as the "Executive organization act of 1965."

16.102 Head of department; defined. [M.S.A. 3.29(2)]

Sec. 2. Whenever the term "head of the department" is used it shall mean the head of one of the principal departments created by this act.

16.103 Types of transfers; agencies not enumerated; continuation. [M.S.A. 3.29(3)]

Sec. 3. (a) Under this act, a type I transfer means the transferring intact of an existing department, board, commission or agency to a principal department established by this act. When any board, commission, or other agency is transferred to a principal department under a type I transfer, that board, commission or agency shall be administered under the supervision of that principal department. Any board, commission or other agency granted a type I transfer shall exercise its prescribed statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards, and adjudication independently of the head of the department. Under a type I transfer all budgeting, procurement and related management functions of any transferred board, agency or commission shall be performed under the direction and supervision of the head of the principal department.

(b) Under this act, a type II transfer means transferring of an existing department, board, commission or agency to a principal department established by this act. Any department, board, commission or agency assigned to a type II transfer under this act shall have all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, transferred to that principal department.

(ε) Under this act, a type III transfer means the abolishing of an existing department, board, commission, or agency and all its statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, are transferred to that principal department as specified under this act.

(d) Any department, board, commission, or agency not enumerated within this act, but established by law within a department, board, commission or agency shall continue within the department, board, commission or agency within which it had previously been established, and shall continue to exercise all its powers, duties and functions within the principal department established by this act.

16.104 Principal departments. [M.S.A. 3.29(4)]

Sec. 4. Except as otherwise provided by this act, or the state constitution, all executive and administrative powers, duties and functions, excepting those of the legislature and the judiciary, previously vested by law in the several state departments, commissions, boards.

officers, bureaus, divisions or other agencies are vested in the following principal departments;

(1)	Department of State	(11)	Department of Corrections
(2)	Department of Attorney General	(12)	Department of Education
(3)	Department of Treasury	(13)	Department of Licensing and
(4)	Department of Administration		Regulation
(5)	Department of State Police	(14)	Department of State Highways
(6)	Department of Military Affairs	(15)	Department of Labor
(7)	Department of Agriculture	(16)	Department of Mental Health
(8)	Department of Civil Service	(17)	Department of Public Health
(9)	Department of Commerce	(18)	Department of Social Services
(10)	Department of Conservation	(19)	Department of Civil Rights.

16.105 Principal department with commission head; delegation of authority. [M.S.A. 3.29(5)]

Sec. 5. When a principal department is headed by a commission, it may delegate such duties, powers and authority to the director of the department as it deems necessary to fulfill the duties and obligations of the commission.

16.106 Deputy department heads; powers and duties. [M.S.A. 3.29(6)]

Sec. 6. Deputy department heads shall perform such duties and exercise such powers as the head of the principal department may prescribe. Except when the head of a department is a commission, deputy department heads shall act for, and exercise the powers of the head of the principal department during his absence or disability.

16.107 Internal organization of department; allocation and reallocation of duties and functions; limitations. [M.S.A. 3.29(7)]

Sec. 7. (a) Except as provided by law or within this act, the head of each principal department with the approval of the governor is authorized to establish the internal organization of his department and allocate and reallocate duties and functions to promote economic and efficient administration and operation of the department. No substantive function vested by law in any officer or agency within the principal department shall be removed from the jurisdiction of such officer or agency under the provisions of this section.

Transfer of type II or type III agencies; administration; rules and regulations.

(b) Except as provided by law or within this act, when any department, commission or board or other agency is transferred by a type II or type III transfer to a principal department under the provisions of this act, the functions of the department, commission or board or other agency shall be administered under the direction and supervision of the head of the principal department. When a department, commission, board or other agency is transferred by a type II or type III transfer to a principal department all prescribed statutory functions of rule making, licensing and registration including the prescription of rules, regulations, standards and adjudications shall be transferred to the head of the principal department into which the department, commission, board or agency has been incorporated.

16.108 Principal department heads; compensation; engaging in other business or employment. [M.S.A. 3.29(8)]

Sec. 8. (a) Heads of principal departments, commissions or boards, principal executive officers of departments, commissions and boards shall receive compensation prescribed by law.

(b) Directors of departments, commissions, boards and directors of departments, boards and commissions transferred to a principal department shall not engage in any business, vocation or employment other than their office. Members of boards and commissions may so engage unless specifically prohibited by law.

HISTORY: Am. 1965, p. 828, Act 407, Imd. Eff. Oct. 29.

16.109 Promulgation of rules and regulations. [M.S.A. 3.29(9)]

Sec. 9. The head of each principal department, and those commissions, boards and agencies granted a type I transfer may promulgate such rules and regulations as may be necessary to carry out the functions now or hereafter vested in them in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

16.110 Governor; continuation of powers and duties. [M.S.A. 3.29(10)]

Sec. 10. All powers, duties and functions vested in the office of governor are continued, except as otherwise provided by this act.

16.111 Special commissions. [M.S.A. 3.29(11)]

Sec. 11. Special commissions created under Act No. 195 of the Public Acts of 1931, being sections 10.51 to 10.57 of the Compiled Laws of 1948, are units of the executive office of governor.

16.112 Executive budget, transfer of executive office; responsibilities; budget director. [M.S.A. 3.29(12)]

Sec. 12. All powers, duties and functions of the department of administration, created under Act No. 51 of the First Extra Session of 1948, being sections 18.1 to 18.16 of the Compiled Laws of 1948, deemed necessary by the governor for effective planning and preparation of a comprehensive executive budget and for the execution, management and control of the enacted state budget are transferred to the executive office of the governor. Included in the executive budget function shall be continuing responsibility for analysis of all state agency programs and concurrently to evaluate administrative management and performance accountability in accordance with approved operational plans and public policy goals. All personnel of the budget division and all other personnel of the department of administration necessary to implement this section are transferred by a type II transfer to the executive office of the governor. The state budget director shall be appointed by the governor serve at his pleasure and is exempt from the classified state civil service.

CHAPTER 10.

Department of Commerce

16.331 Public service commission; transfer. [M.S.A. 3.29(231)]

Sec. 231. The Michigan public service commission created under section 1 of Act No. 3 of the Public Acts of 1939, as amended, being section 460.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of commerce.

CHAPTER 11.

Department of Conservation

16.350 Department of conservation; creation. [M.S.A. 3.29(250)]

Sec. 250. There is hereby created a department of conservation.

16.351 Head of department. [M.S.A. 3.29(251)]

Sec. 251. The head of the department of conservation is the commission of conservation.

16.352 Department of conservation; transfer. [M.S.A. 3.29(252)]

Sec. 252. The department of conservation, created under section 1 of Act No., 17 of the Public Acts of 1921, as amended, being section 299.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of conservation.

16.353 Director of conservation; functions; transfer. [M.S.A. 3.29(253)]

Sec. 253. All powers, duties and functions now vested by law in the director of conservation are transferred by a type I transfer to the department of conservation.

16.354 Commission of conservation; appointment; membership; terms; vacancies; officers; quorum. [M.S.A. 3.29(254)]

Sec. 254. The commission of conservation shall consist of 5 members, not more than 3 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that of members first appointed 2 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years and 1 shall be appointed for 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members such officers as it deems advisable. A majority of the commission members shall be required to constitute a quorum.

16.355 Director of department; appointment. [M.S.A. 3.29(255)]

Sec. 255. The principal executive officer of the department is the director of the department of conservation. The director shall be appointed by the commission and serve at its pleasure.

16.356 Mackinac island state park commission; transfer. [M.S.A. 3.29(256)]

Sec. 256. The Mackinac island state park commission created under section 2 of Act No. 355 of the Public Acts of 1927, as amended, being section 318.62 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of conservation.

16.357 Water resources commission; transfer. [M.S.A. 3.29(257)]

Sec. 257. The water resources commission created under section 1 of Act No. 245 of the Public Acts of 1929, as amended, being section 323.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of conservation.

16.358 Waterways commission; transfer. [M.S.A. 3.29(258)]

Sec. 258. The Michigan state waterways commission created under section 2 of Act No. 320 of the Public Acts of 1947, as amended, being section 281.502 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of conservation.

HISTORY: Am. 1965, p. 829, Act 407, Imd. Eff. Oct. 29.

16.359 Boating control committee; transfer. [M.S.A. 3.29(259)]

Sec. 259. The boating control committee created under section 1a of Act No. 235 of the Public Acts of 1959, as amended, being section 281.651a of the Compiled Laws of 1948, is transferred by a type II transfer to the department of conservation.

16.360 Tourist council; transfer. [M.S.A. 3.29(260)]

Sec. 260. The Michigan tourist council created by Act No. 106 of the Public Acts of 1945, as amended, being sections 2.101 to 2.108 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of conservation.

CHAPTER 21.

Transfer of Powers

16.600 Actions, suits or proceedings not to abate; effect of reorganization; maintenance by or against successors. [M.S.A. 3.29(500)]

Sec. 500. No suit, action or other proceeding lawfully commenced by or against any department, board, commission, agency or any officer of the state, in his official capacity or in relation to the discharge of his official duties, shall abate by the reason of the taking effect of any reorganization under the provisions of this act. The court may allow the suit, action or other proceeding to be maintained by or against the successor of any department, board, commission, agency or any officer affected by this act.

GRAND RIVER BASIN COORDINATING COMMITTEE DETROIT MI F/G 8/6
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16.601 Rules, regulations and orders adopted prior to act; continuation. [M.S.A. 3.29(501)]

Sec. 501. All rules, regulations and orders of departments, boards, commissions or other agencies lawfully adopted prior to the effective date of any provision of this act shall continue to be effective until revised, amended or repealed.

16.602 Criminal action not to abate. [M.S.A. 3.29(502)]

Sec. 502. No criminal action commenced by the state shall abate by the taking effect of this act.

16.603 Appointment of principal department head; prior right of appointee to records; continuation of powers and duties prior to transfer. [M.S.A. 3.29(503)]

Sec. 503. The governor may appoint the head of any principal department not otherwise elected or appointed. Prior to assuming his duties as head of a department, the appointee shall have full access to all departments and agencies and records thereof relevant to his prospective duties for the purpose of formulating the internal organization of the department. During the period before the transfer of any powers, duties and functions in accordance with this act, existing departments and agencies shall continue to exercise their powers, duties and functions.

HISTORY: Am. 1965, p. 830, Act 407, Imd. Eff. Oct. 29

16.604 Effective date of separate sections by executive order; limitations on transfer of powers or duties of constitutional offices; final effective date. [M.S.A. 3.29(504)]

Sec. 504. The governor shall establish, from time to time, by executive order the effective date of each section of this act which provides for the transfer of any organizational entity or the powers, duties and functions of any organizational entity or officer as provided in this act, but in no case shall such transfer change the powers, duties and functions of any state official elected in a general election prior to January 1, 1964, before the expiration of his term of office in contravention of the state constitution. All provisions of this act shall become effective not later than December 31, 1966.

16.605 Records, property, personnel and funds transfer; appropriations returned to fund; federal aid; expiration of section. [M.S.A. 3.29(505)]

Sec. 505. When duties, powers and functions have been transferred by this act to a principal department, so much of the records, property, personnel and unexpended balances of appropriations, allocations and other funds, used, held, employed, available, or to be made available in connection with such powers, duties and functions shall be transferred to the department as the governor shall determine to be required for the performance of the transferred functions. Appropriations not so required shall be returned to the fund from which appropriated. No transfer of funds is authorized under this section if such transfer would result in the termination of any federal aid program. This section remains effective until December 31, 1966.

16.606 Advisory councils; membership; appointment; terms; vacancies; meetings; compensation. [M.S.A. 3.29(506)]

Sec. 506. The governor may establish in the departments of commerce, labor, state police, military affairs, mental health, public health, licensing and regulation, and social services, advisory councils consisting of 8 members appointed by the governor with the advice and consent of the senate. The term of office of each member of an advisory council shall be 4 years, except that of the members first appointed, 2 each shall be appointed for terms of 1, 2, 3 and 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The advisory councils

shall meet upon the call of the head of their respective departments and shall advise and consult with the head of the department. Members of advisory councils shall receive no compensation, but may be reimbursed for the actual and necessary expenses incurred in carrying out their advisory functions.

16.607 State officer or state department official not continued under act; designation by governor of successor. [M.S.A. 3.29(507)]

Sec. 507. If under any law a state officer or state department official is designated as a member of a governmental agency and if such state officer or state departmental official is not continued under the provisions of this act, the governor by executive order may designate a state officer or state departmental official to succeed to the membership.

16.608 Single executive head of department; appointment. [M.S.A. 3.29(508)]

Sec. 508. When a single executive is the head of a principal department, unless elected as provided in the constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

TOWNSHIPS

FURNISHING WATER

Act 107, 1941, p. 131; Imd. Eff. May 20.

An act to authorize township boards to contract with cities or villages for the furnishing of water to township water supply districts for fire protection and other purposes; to provide for installation of water mains and financing of same on voluntary payment basis; to authorize township boards to promulgate and adopt plans for financing, installation, maintenance and control of township water mains; to prescribe the powers and duties of township boards in such cases; to provide for exclusive control of such water mains and use thereof by the township board, and to bring within the provisions of this act certain existing township water mains; and to authorize township water supply and sewage disposal systems, and the issuance of revenue bonds or notes therefor, and to authorize purchases thereof.

The People of the State of Michigan enact:

41.331 Township water supply district; contract with city or village. [M.S.A. 5.2599(1)]

Sec. 1. Upon filing with the township clerk of petitions verified both as to signature and ownership, signed by 60 per centum of the record owners of the land to be made into a township water supply district, the township board in such township shall have the power to contract with any city or village for the furnishing of water for fire protection and domestic purposes to such water supply district under such terms and conditions as may be agreed upon between said township board and the common council or other representative body of the city or village.

Title Am. 1951, p. 270, Act 201, Imd. Eff. June 14.

41.332 Water mains and fittings, purchase and laying. [M.S.A. 5.2599(2)]

Sec. 2. For the purpose of distributing the water to be furnished in pursuance of such contract the township board shall have the right to purchase and lay all necessary water mains and fittings, and maintain and control use of the same, either along public highways or upon private property upon which the right to lay such pipe has been obtained.

41.333 Same; payment of cost; share of township; tax exemption; amount set apart, ratio; map. [M.S.A. 5.2599(3)]

Sec. 3. Not more than 75 per centum of the net cost, exclusive of funds, materials, or labor, or any combination thereof, that may be furnished and supplied by any federal agency, of purchasing and laying said mains and fittings, shall be paid out of the contingent fund of the township. The township board, on resolving to make and install any such improvement, shall determine by resolution the aforesaid net cost and the share of such net cost (not exceeding the aforesaid maximum percentage) the contingent fund of the township shall bear: Provided, however, That no part of the cost of any water supply system acquired or created under the provisions of this act shall be levied or collected as a tax or assessment, whether general or special, upon property located in any village, school district or water supply district in the township or located in an area thereof served by a water system owned or operated by any city and herein called a city water supply district, where such village, school district or water supply district has a water supply system which was acquired in the first instance and is operated by or for such village, school district or water supply district without any expense to the township-at-large; nor shall any water supply system, so separately financed and operated, be taken, as to ownership or control, except by due process of law as provided by the general laws of this state; and, having determined upon the amount of money to be appropriated at any time from the township's contingent fund for purposes herein authorized, the township board may set apart from that amount when appropriated a proportionate part thereof for the benefit of any such separately operated water supply district in the same ratio to the whole amount appropriated as the population of such separate district bears to the total population of the township, as determined by such board. Such proportionate part shall be deemed the rightful part applicable to such separate water supply district and be applied thereto for the

betterment of its separate system as and when authorized by such board. The township board shall prepare and keep on file a map defining the boundaries of any water supply district so served by any such separately financed and operated water supply system separate from any township water system.

HISTORY Am. 1949, p. 9, Act 10, Ind. Eff. Mar. 8; Am. 1949, p. 123, Act 118, Eff. Sept. 23. Am. 1951, p. 270, Act 201, Ind. Eff. June 14.

41.334 Cost, balance of, to be raised by popular subscription.

[M.S.A. 5.2599(4)]

Sec. 4. The remaining percentage of such net cost shall be raised by voluntary payment in accordance with the terms provided herein, on the part of property owners in such township water supply district, of funds sufficient to aggregate such remaining percentage.

41.335 Financing of improvement, plan; connections, amount payable to township for making; rules and regulations. [M.S.A. 5.2599(5)]

Sec. 3. No person or property owner shall have or possess right to tap or make any connection with said mains without having paid for such privilege in a cordance with the terms of this act. On compliance with the provisions of section 3 hereof, the township board shall promulgate and adopt, by resolution, a plan for financing, maintenance and control of such improvement which plan shall provide:

(a) The minimum amount, payable in first instance as herein provided, for the priv-

ilege of tapping and making of each private connection with such mains;

(b) A specified date by which all such minimum payments shall be made to the township treasurer; such date to be not less than 30 nor more than 60 days after completion of the publication required by section 6 hereof;

(c) The amount payable, to the township treasurer, after such specified date, for the privilege of tapping and making of each private connection with such mains, same to be not more than 50 per centum nor less than 20 per centum greater than the minimum amount so

payable in the first instance.

(d) Rules and regulations designed to vest exclusive governing control of such mains and fittings in the township board and to maintain and preserve adequate water pressure throughout such mains, which said rules and regulations shall conform to the contract made under authority of section 1 hereof. Such rules and regulations shall include provision limiting the number of private connections with such mains which may be purchased and made; provision limiting length of all private connections with such mains; provisions declaring the maximum size of pipe which shall be used by all persons and property owners in making and maintaining private connections with such mains; provision for minimum distance, on either or both sides of such mains, between taps for all private connections, and general provisions governing use and control of such mains, assessment of water rates, collection and payment of water rates and suitable penalties for non-payment of such rates. HISTORY: Am. 1949, p. 9, Act 10, Imd. Eff. Mar. 8.

41.335a Township water board; loans; powers. [M.S.A. 5.2599(5a)]

Sec. 5a. The township board may include, in its plan for financing under section 5 hereof, rules and regulations for setting up of a township water board and for loans to such water board from private parties of sums necessary to aid in the financing of the project so petitioned for, which loans shall be retired only out of excess funds as defined in section 9 hereof and other direct revenues, if any, to be derived from the project. Should such water board be set up in accordance with this provision, it shall exercise under direction of the township board all of the powers of maintenance and control which are granted by this act to the township board.

Loans of sums to aid in the financing of any project petitioned for under this act, heretofore made by private parties to a township board or township water board at interest
rates below the legal rate, are hereby validated, but the same shall be retired only out
of excess funds as defined in section 9 hereof and other direct revenues, if any, to be
derived from the project. In no case shall any loan authorized or validated by this section
constitute an obligation of the township, and such loans shall be recurred solely by a lien

in favor of the lender or lenders upon such excess funds and revenues.

HISTORY: Add. 1949, p. 10, Act 10, Imd. Eff. Mar. 8.

41.336 Same; publication of plan of financing. [M.S.A. 5.2599(6)]

Sec. 6. Immediately following adoption of such plan the same shall, in extenso, be published by the township board once each week for 3 successive weeks in some newspaper printed and circulating within the county in which such improvement is to be made, and proof of such publication shall be made and filed with the township clerk before installation of such improvement is undertaken or commenced. Such publication shall constitute the sole notice of such planned improvement, and of the provisions of such plan and of such rules and regulations, which interested persons and property owners shall be entitled to receive.

41.337 Failure to raise balance in accordance with terms of plan; refund of prior payments. [M.S.A. 5.2599(7)]

Sec. 7. In the event such remaining percentage is not, in pursuance of said plan, fully paid in to the township treasurer, either by paid for connection rights as provided in such published plan and/or by loans made in accordance with section 5a hereof, by the specified date which is required by (b) of section 5 hereof, the improvement shall not be made or commenced and all sums theretofore deposited with the township treasurer in pursuance of such plan shall thereupon be refunded by the township treasurer to the respective depositors thereof.

HISTORY: Am. 1949, p. 10, Act 10, Imd. Eff. Mar. 8.

41.338 Installation of improvement, duty of township board; authority to borrow funds. [M.S.A. 5.2599(8)]

Sec. 8. In event a sufficient number of private connection rights are timely paid for in accordance with the terms of said plan, the township board shall forthwith proceed to make and install such improvement and may do and perform, by resolution, such acts as may be necessary to accomplish the purposes of such plan. The board may legally borrow the amount, or any portion thereof, to be appropriated from the contingent fund under section 3 hereof if, in the judgment of the board, the contingent fund will, by such appropriation, be depleted to such extent as may hamper general township operations. Any such loan shall conform to the provisions of Act No. 26 of the Public Acts of 1931, as amended.

NOTE: Act 26, 1931, above referred to, has been repealed and superseded by Act 202, 1943, being Compilers'

41.339 Excess payments of connection fees over required amounts, disposition of; section retroactive to apply to previous installations. [M.S.A. 5.2599(9)]

Sec. 9. All funds and deposits that are or may be paid in to the township treasurer for private connection rights after the specified date required by (b) of section 5 hereof, and all funds and deposits that are paid in to the township treasurer on or before such date which create an excess over such remaining percentage, shall be treated as excess funds and shall become a part of the contingent fund: Provided, That the township board may, in its discretion, credit and pay over, from time to time, all or a portion of such excess funds to any school district in which such improvement, in whole or in part, has been made. This section shall apply to all funds and deposits hereafter received by the township treasurer in cases where water mains have already, prior to the effective date of this act, been extended or installed in accordance with plan substantially similar to that contemplated by section 5 hereof.

41.340 Control over mains and fittings; authority of township board; amendment of rules and regulations. [M.S.A. 5.2599(10)]

Sec. 10. The township board shall have and possess exclusive governing control over the maintenance and use of said mains and fittings and shall exercise such control in accordance with the terms of this act and the rules and regulations that are required by and conform to (d) of section 5 hereof. Such rules and regulations shall and may be amended or altered by the township board only after notice of intention on its part so to do, specifying date, hour and place of meeting of the board for such purpose, is published for 3 successive weeks in some newspaper which is published and circulating within the county in which such improvement has been made.

41.341 Same; previously installed or extended; rules, publication, amendment. [M.S.A. 5.2599(11)]

Sec. 11. In all cases where water mains have been extended or installed in accordance with plan substantially similar to that contemplated by section 5 hereof, the township board shall (subject to provisions of such contract as has been made with any city or village for furnishing of water through such mains) have and possess exclusive governing control over such mains and fittings and the maintenance and use thereof. In all such cases the township board may, at any time following the effective date of this act, promulgate and adopt, by resolution, rules and regulations conforming substantially with (d) of section 5 hereof. Such rules and regulations shall become effective on completion of publication of same, in extenso, once each week for 3 successive weeks in some newspaper printed or circulating within the county in which such improvement has been made. After such rules and regulations have become effective the same shall and may be amended or altered by the township board only after notice of intention so to do, specifying date, hour and place of meeting of the board for such purpose, is published for 3 successive weeks in some newspaper which is published and circulating within such county.

41.342 Definitions. [M.S.A. 5.2599(12)]

Sec. 12. The term "township water supply district," as used herein, shall be construed to mean and include such portion of the township as may be described in the petition required by section 1 hereof, and the same shall consist of contiguous and unseparated lands

which have been included in 1 or more plats.

The term "private connection," as used herein, shall be construed to mean the tapping of mains and connection thereof with non-public buildings or premises as distinguished from connections with public buildings or premises and extensions of such mains, lateral or otherwise, which the township board may, in accordance with altered or amended rules and regulations, authorize in and along public highways.

41.343 Township water supply and sewage disposal system; loan from corporation, bonds. [M.S.A. 5.2599(14)]

Sec. 13. Any corporation proposing to locate and construct, in a township having no sewage disposal system and a water supply system heretofore installed under the terms of sections 1 to 12 of this act which is inadequate for domestic and proposed industrial requirements, a business or plant requiring the facilities of a modern and sufficient public water supply and sewage disposal system, may notwithstanding anything herein contained to the contrary lawfully loan to such township funds sufficient to provide for the acquisition and construction of an adequate township water supply and sewage disposal system and for the refunding of any revenue bonds or revenue notes, if any, then outstanding and constituting a lien upon the revenues of any such existing water supply system, and the township may lawfully borrow from such corporation funds for the aforesaid purposes and execute revenue bonds and mortgage securing the same and pledge the net revenues of the proposed water supply and sewage disposal system to the repayment of such loan, and may acquire, construct or improve such works and refund such bonds or notes, without complying with section I hereof, any previously enacted statute to the contrary notwithstanding. Any bond issued under the provisions of this section shall be the valid and subsisting obligations of said township.

HISTORY: Add. 1951, p. 270, Act 201, Imd. Eff. June 14.

41.344 Same; contract for issuance of revenue bonds; interest, terms and conditions. [M.S.A. 5.2599(15)]

Sec. 14. Any township borrowing for the purposes of and by authority of section 13 hereof may lawfully enter into a contract with such corporation for the issuance and delivery to such corporation or its assigns of self-liquidating and fully negotiable revenue bonds for the repayment of such loan with interest thereon not exceeding the legal rate, according to such terms and conditions consistent with this act as may be agreed upon between the township board of such township and the lending corporation.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. June 14.

41.345 Same; ordinance. [M.S.A. 5.2599(16)]

Sec. 15. The power herein conferred on any such township shall be exercised by means of an ordinance adopted by the township board thereof according to the procedure set forth in Act No. 191 of the Public Acts of 1939, and the contract agreed upon with such corporation as provided in section 14 hereof shall be incorporated in and published as a part of such ordinance.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. June 14.

41.346 Same; statutory lien upon net revenues; trust funds. [M.S.A. 5.2599(17)]

Sec. 16. There shall be created in the authorizing ordinance a lien, by this act made a statutory lien, upon the net revenues of such water supply and sewage disposal project, and the authorizing ordinance shall pledge such net revenues to the payment of the principal of and interest upon such bonds, to and in favor of the holders of such bonds and the interest coupons pertaining thereto, and each of such holders, which liens shall be a first lien upon such net revenues. Said net revenues shall constitute trust funds for the purposes expressed herein.

HISTORY: Add 1951, p. 271, Act 201, Imd. Eff. June 14.

41.347 Same; duration of lien. [M.S.A. 5.2599(18)]

Sec. 17. The net revenues so pledged shall be and remain subject to said statutory lien until the payment in full of the principal of and interest upon said bonds. The holder or holders of said bonds representing in the aggregate not less than 20 per cent of the entire issue then outstanding may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce said statutory lien and enforce and compel the performance of all duties of the officials of the borrower, including the fixing of sufficient rates, the collection of revenues, the proper segregation of revenues and the proper application thereof: Provided, however, That said statutory lien shall not be construed to give any holder or owner of any bond or coupon authority to compel the sale of the water supply and sewage disposal system, the revenues of which are pledged thereto.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. June 14.

41.348 Default in payment; appointment of receiver. [M.S.A. 5.2599(19)]

Sec. 18. If there be any default in the payment of the principal of or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate on behalf of the township, under the direction of said court, any such water supply and sewage disposal system and revenues of which are pledged to the payment of such principal and interest; and by and with the approval of said court, to fix and charge rates and collect revenues sufficient to provide for the payment of any bonds or other obligations outstanding against the revenues of said water supply and sewage disposal system and for the payment of expenses of operating and maintaining the same and to apply the income and revenues of said water supply and sewage disposal system in conformity with this act and the ordinance providing for the issuance of such bonds and in accordance with such orders as the court shall make.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. June 14.

41.349 Principal and interest, payment. [M.S.A. 5.2599 (20)]

Sec. 19. The principal of and interest upon such bonds shall be payable solely from such net revenues derived from the operation of the water supply and sewage disposal system purchased, acquired, constructed, improved, enlarged, extended and/or repaired from the proceeds of such bonds, as shall be pledged thereto in the authorizing ordinance, which may include, if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions and/or repairs thereto. No bond or coupon issued pursuant to this act shall be a general obligation of the borrower or shall constitute an indebtedness of the borrower within the meaning of any state constitutional provision or statutory limitation. Bonds may be registered as to principal under such terms and conditions as may be determined by the township board.

HISTORY: Add. 1951, p. 272, Act 201, Imd. Eff. June 14.

41.350 Borrower may use other revenue for operation and maintenance. [M.S.A. 5.2599(21)]

Sec. 20. The borrower is hereby empowered to appropriate and use any part of its available income or revenues derived from any source other than from the operation of such public improvement in paying any expenses of operation or maintenance of any such public improvement.

HISTORY: Add, 1951, p. 272, Act 201, Imd. Eff. June 14,

41.a351 Powers conferred; "corporation" defined. [M.S.A. 5.2599(22)]

Sec. 21. This act constitutes a new and independent authority for the exercise of the powers herein granted. The powers conferred by this act are not affected or limited by any other statute, except as expressly provided herein. This act creates a full and complete additional and alternate method for the exercise of the powers herein conferred. The term "corporation" as used in this act includes both foreign and domestic corporations lawfully doing business in this state.

HISTORY: Add. 1951, p. 272, Act 201, Imd. Eff. June 14.

Act 47, 1941, p. 42; Imd. Eff. April 16.

AN ACT to authorize the township board of any township to provide water mains and/or water service for domestic uses and/or fire protection throughout certain areas of such township; to authorize the township board of any township to contract with municipalities or with organized water departments or districts through their authorized governing bodies for the construction of, and supplying water through, water mains and the extensions thereof throughout certain areas of such township for domestic or fire protection purposes; to provide for making, levying and collecting special assessments to pay the cost thereof; to issue special assessment bonds in anticipation of the collection of such special assessment taxes; and to advance amounts necessary to pay such bonds and to reimburse the township for such advances; to remit certain funds to property owners for taxes paid.

The People of the State of Michigan enact:

41.351 Water service; authority of township board to contract with municipalities for; special assessments; issuance of bonds. [M.S.A. 5.2585(1)]

Sec. 1. In any township where there are lands adjacent to municipalities or areas serviced by water departments or districts, the township board shall have the authority to contract with the governing body or other agency operating such water department or district for the purpose of securing extensions or further extensions of water mains throughout portions of the township and to provide water service by the continued operation of such mains by such municipality or the water department or district. The township board may make, levy and collect special assessments to provide the necessary money to carry out the terms of such contract and to issue bonds in anticipation of the collection of such special assessments upon filing the petition and subject to the terms and conditions hereinafter provided.

41.352 Special assessment district; procedure to establish; petition. [M.S.A. 5.2585(2)]

Sec. 2. Upon the filing of petition, setting forth the boundaries and requesting establishment under this act of a special assessment water district in which the improvement specified in section 1 is desired, signed by the record owners of land within the said area proposed to be made into such special assessment district, the township board shall have power to create, define and establish within all or any part of such area a special assessment district throughout which the improvement shall be carried out, and to contract for the purpose of securing the laying of water mains and the providing of water service for domestic uses and/or fire protection: Provided, however, That such petition, verified both as to signature and ownership, shall have been signed by the record owners of not less than 51 per cent by area of the land actually created into such special assessment district by said township board.

41.353 Contract, hearing on; levy of special assessment; issuance of bonds; township may advance funds to meet installments. [M.S.A. 5.2585(3)]

Sec. 3. Before entering into such contract as heretofore specified, the township board shall determine by resolution the amount of money necessary to carry out the terms of the contract, and shall give notice to the property owners within the said district of the proposal to enter into such contract and of such amount of money as determined by resolution, and shall give such property owners an opportunity to be heard thereon. Notice of such hearing shall be given not less than 7 days prior to the hearing by 1 publication in a newspaper of general circulation in the township, and by posting, not less than 7 days prior to the hearing, in 3 public places within the area proposed to be provided with the improvement under the terms of the proposed contract. A copy of the proposed contract shall be on file with the clerk of the township during the 7 days prior to such hearing and shall be available for inspection at the office of the clerk during business hours, and the notice published and posted shall so state. At the hearing as herein provided, or at a meeting ent thereto, the township board may approve the contract as submitted, or as it may diffied by the board, provided there shall be no increase of amount of money required erformance of said contract unless resolution, notice and hearing are had as proin the first instance. After approval of the contract by the township board it shall provide for the making of a special assessment upon each and every parcel of land in the special assessment district by frontage or benefits and for the issuing and sale of special assessment bonds in anticipation of the collection of said special assessment taxes. No such bonds shall be issued prior to the final confirmation of the assessment roll by the township board. All proceedings relating to the making, levying and collection of special assessments for the purchase or construction of improvements herein authorized and issuing bonds in anticipation of the collection thereof, shall conform, as near as may be, to the proceedings for levying special assessments and issuing special assessment bonds by villages, for like improvements, as set forth in Act No. 3 of the Public Acts of 1895, as amended, being sections 1465 to 1760, inclusive, of the Compiled Laws of 1929. If any such special assessment fund is insufficient to pay such bonds and interest thereon when due, the township board may advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by re-assessment of the deficiency if necessary

NOTE: Act 3, 1895, above referred to, is Compilers' \$ 61.1 et seq.; and in particular Compilers' \$ 68.1 et seq.

41.354 Water service in townships; cost, collection, maximum amount; annual installments. [M.S.A. 5.2585(4)]

Sec. 4. The cost of such improvement shall be collected from special assessment against the property involved, but no annual installment of any such special assessment shall be in excess of \$1.25 per front foot. The collection of all such special assessments may be by installments as provided by said Act No. 3 of the Public Acts of 1895, as amended, being sections 61.1 to 75.12, inclusive, of the Compiled Laws of 1948: Provided, That assessments for such improvements as herein specified may be divided into any number of annual installments not exceeding 10.

HISTORY: Am. 1952, p. 110, Act 98, Imd. Eff. April 11.

41.355 Credit for connections by water users; limitations; payment. [M.S.A. 5.2585(5)]

Sec. 5. In the event that the contract entered into as herein provided specifies that the party or agency making the extensions of mains or supplying the water for service through such mains shall pay certain specified sums as credit for connections by water users upon such extended mains, the township board shall direct that such payments be made to the treasurer of the township, and the township board shall further direct the treasurer to credit any such payments upon the special assessment, herein provided for, on the property for which such payment was made, or in the event that at that time such special assessment is less than the credit, then that payment of the balance, but to an amount not greater than the original special assessment tax levied upon such property, be made by the treasurer to the then record owner of the property. Any remaining balance shall be used as the township board shall direct.

41.356 Annual assessment for maintenance, determination and levy. [M.S.A. 5.2585(6)]

Sec. 6. After the creation of such special assessment district, the township board may thereafter annually determine the amount to be assessed in said district for the maintenance or continuation of the contract entered into as herein provided, whether such annual assessment may be required for fire hydrant rental or payments or otherwise. The township board shall direct the supervisor or assessor to levy the said amount as annually determined. Such assessment may be made either in a special assessment roll or in a column provided therefor in the regular tax roll. The assessment shall be spread and become due and be collected at the same time as the other township taxes are assessed, levied and collected and shall be returned in the same manner for non-payment.

Act 88, 1919, p. 156; Imd. Eff. April 19.

AN ACT to authorize township boards to contract with cities or villages for the furnishing of water for fire protection and other purposes; to authorize the issuing of bonds in connection therewith and to provide for the making, levying and collecting of special assessments to partially defray the cost thereof.

The People of the State of Michigan enact;

41.391 Contract power of township board for water supply on filing petition. [M.S.A. 5.2591]

Sec. 1. Upon the filing of petitions verified both as to signature and ownership, signed by 60 per centum of the record owners of the land to be made into a special assessment district, the township board in any township shall have the power to contract with any city or village for the furnishing of water for fire protection and other purposes to such portion of the township, and under such terms and conditions, as may be agreed upon between said township board and the common council or other representative body of the city or village.

HISTORY: Am. 1927, p. 394, Act 202, Imd. Eff. May 19;—C L 1929, 2449. Title Am. 1927, p. 394, Act 202, Imd. Eff. May 19.

41.392 Necessary pipes; installation, maintenance. [M.S.A. 5.2592]

Sec. 2. For the purpose of distributing the water provided for in the foregoing section the township board shall have the right to purchase and lay all necessary pipes, connections and fittings, and maintain the same, either along a public highway or upon private property upon which the right to lay such pipe has been obtained.

HISTORY: CL 1929, 2450.

41.393 Cost, payment. [M.S.A. 5.2593]

Sec. 3. Fifty percent of the cost of purchasing, laying and maintaining said pipe shall be paid out of the contingent fund of the township: Provided, That if the amount which the said township is lawfully authorized to raise for township purposes is not sufficient to pay the township's share of purchasing and laying said pipe the electors of said township, at the annual meeting, or at a special meeting called for that purpose, may authorize the raising of the amount deemed necessary for said purposes, and also whether the said amount shall be raised by tax in 1 year or by bonds to be issued for the purpose.

HISTORY: Am. 1927, p. 394, Act 202, Imd. Eff. May 19;-C L 1929, 2451.

41.394 Certification of tax. [M.S.A. 5.2594]

Sec. 4. If the said electors, by a majority vote, decide in favor of raising the entire amount by tax, the amount so decided shall be certified by the township clerk to the supervisor, and all other proceedings taken in connection therewith shall be the same as in the case of ordinary township taxes.

HISTORY: CL 1929, 2452.

TAXATION: See Compilers' § 211.1 et seq.

41.395 Bonds; terms, limit. [M.S.A. 5.2595]

Sec. 5. In the event that the electors decide, by majority vote, in favor of raising the necessary amount through the issuance of bonds, the township board shall determine the number of annual installments in which said bonds shall be divided, the rate of interest which they shall bear, and the other terms and conditions which they shall contain, but the installments shall not exceed 10; the rate of interest shall not exceed 5½ per cent per annum, nor shall the total amount voted for such purposes in any year exceed 1 per cent of the assessed valuation of the said township.

HISTORY: C.L. 1929, 2453.

41.396 Tax levy. [M.S.A. 5.2596]

Sec. 6. It shall be the duty of the township board to provide for the raising by tax upon the taxable property of said township, such sums of money as shall be sufficient to pay the amount of said bonds and the interest thereon as the same shall become due.

HISTORY: CL 1929, 2454.

41.397 Special assessments; bonds. [M.S.A. 5.2597]

Sec. 7. The remaining 50 per cent of the cost shall be raised by the levying and collection of special assessments. The township board shall have the power to determine the cost thereof; to create, define and establish a special assessment district upon which the cost shall be levied; to levy and collect the special assessments; to pay the cost thereof; and to issue bonds in anticipation of the collection of said special assessments.

HISTORY: Add. 1927, p. 395, Act 202, Imd. Eff. May 19;-C L 1929, 2455.

41.398 Prerequisites to construction; bonds, issuance; proceedings. [M.S.A. 5.2598]

Sec. 8. Before purchasing or laying said pipe, the township board shall determine by resolution the cost thereof and shall provide for the making of a special assessment upon each and every parcel of land in the special assessment district by benefits, and for the issuing and sale of special assessment bonds in anticipation of the collection of said special assessment taxes. No such bonds shall be issued prior to the final confirmation of the assessment roll by the township board. All proceedings relating to the making, levying or collection of special assessments herein authorized and the issuing of bonds in anticipation of the collection thereof, shall conform as near as may be, to the proceedings for levying special assessments and issuing special assessment bonds by villages for like purposes, as set forth in Act No. 3 of the Public Acts of 1895, being, as amended, chapter 72 of the Compiled Laws of 1915, as amended. If any such special assessment fund is insufficient to pay such bonds and interest thereon when due, the township board shall advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by re-assessment of the deficiency, if necessary.

HISTORY: Add. 1927, p. 395, Act 202, Imd. Eff. May 19;—C L 1929, 2456. NOTE: Act 3 of 1895, above referred to, is Compilers' § 61.1 to 75.12.

Act 116, 1923, p. 103; Eff. Aug. 30.

An act to authorize improvements in and for lands in townships or waters, adjacent or contiguous thereto, by constructing bridges over natural or artificial waterways, grading, paving, curbing, stoning, graveling, macadamizing or cinderizing streets, laying storm sewers to care for surface water in such streets, destroying weeds, providing street markers and lighting, contracting for public transportation facilities, providing police protection or contracting therefor, establishing and maintaining garbage systems or plants for the collection and disposal of garbage or contracting therefor, constructing or acquiring and maintaining sanitary sewers and sewage disposal plants, constructing filtration plants, constructing sidewalks, purchasing or constructing waterworks, purchasing or contracting for fire apparatus and equipment, constructing and maintaining housing facilities for fire apparatus and equipment, making extension of water mains to provide water for fire protection and domestic uses, for the trimming and spraying of trees and shrubbery, and constructing breakwaters, retaining walls or sea walls or any combination of the foregoing for beach and soil erosion control, providing for the suppression of swimmers' itch and other aquatic nuisance-producing organisms; to provide for making, levying and collecting of special assessments to pay the cost thereof, and to issue special assessment bonds in anticipation of the collection of such special assessment taxes to provide the money with which to pay the cost of such improvements, and advance the amount necessary to pay such bonds and reimburse the township for such advances, and if necessary thereto to reassess the district.

The People of the State of Michigan enact:

41.411 Public improvements in townships and villages; authority of board of council; special assessments, bonds. [M.S.A. 5.2411]

Sec. 1. In any township lands, the township board or common council or board of trustees of an incorporated village as the case may be, shall have the authority to make improvements and provide public service by constructing bridges over natural or artificial waterways, grading, paving, curbing, stoning, graveling, macadamizing or cinderizing streets. or to treat said streets with chloride or other suitable dust laying process or material, laying storm sewers to care for surface water in such streets, destroying weeds, providing street markers and lighting, contracting for public transportation facilities, providing police protection or contracting therefor, establishing and maintaining garbage systems or plants for the collection and disposal of garbage or contracting therefor, constructing or acquiring and maintaining sanitary sewers and sewage disposal plants or equipment, constructing filtration plants, constructing sidewalks, purchasing or constructing waterworks, purchasing fire apparatus and equipment, constructing and maintaining housing facilities for fire apparatus and equipment, making extension of water mains to provide water for fire protection and domestic uses, for the trimming and spraying of trees and shrubbery, to provide and maintain soil and beach erosion control measures including, but not limited to, the construction of breakwaters, retaining walls or sea walls, or any combination of the foregoing, in or for any such lands or waters adjacent or contiguous thereto, to establish and conduct chemical beach treatment service necessary to the control of aquatic nuisances such as swimmers' itch or to contract with others to provide said services; to levy and collect special assessments to pay the cost thereof and to issue bonds in anticipation of the collection of said special assessments, upon filing the petition and subject to the terms and conditions hereinafter provided. In incorporated villages, the common council or board of trustees thereof shall be vested with and shall perform the powers and duties vested in the township board in areas outside incorporated villages.

Condemnation proceedings.

The township board or common council or board of trustees of any incorporated village may purchase, accept by gift or device, or condemn private property. If by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or such other appropriate provisions thereof as

exist or shall be made by law, may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings.

Short title.

This act shall be known and may be cited as the "township and village public improvement act

HISTORY: Am. 1925, p. 381, Act 263, Eff. Aug. 27;—Am. 1927, p. 70, Act 58, Imd. Eff. April 21;
Am. 1929, p. 875, Act 232, Eff. Aug. 28;—C. L. 1929, 2385;—Am. 1931, p. 218, Act 140, Imd. Eff. May 21;
Am. 1937, p. 612, Act 318, Imd. Eff. July 27; Am. 1941, p. 300, Act 201, Eff. Jan. 10, 1942,—Am. 1945, p. 335,
Act 239, Eff. Sept. 6, Am. 1947, p. 210, Act 180, Imd. Eff. June 2;—Am. 1952, p. 44, Act 43, Imd. Eff. April 1;—Am. 1957, p. 287, Act 227, Eff. Sept. 27;—Am. 1961, p. 34, Act 33, Imd. Eff. May 18.

Tule Am. 1925, p. 381, Act 263, Eff. Aug. 27;—Am. 1927, p. 70, Act 58, Imd. Eff. April 21;—Am. 1929, p. 575, Act 232, Eff. Aug. 28;—Am. 1941, p. 218, Act 140, Imd. Eff. May 21;—Am. 1945, p. 106, Act 68, Imd. Eff. May 18, Am. 1937, p. 612, Act 318, Imd. Eff. July 27;—Am. 1941, p. 300, Act 201, Eff. Jan. 10, 1942, Am. 1945, p. 335, Act 239, Eff. Sept. 6; Am. 1947, p. 210, Act 150, Imd. Eff. June 2;—Am. 1952, p. 44, Act 43, Imd. Eff. Apr. 1;—Am. 1957, p. 286, Act 227, Eff. Sept. 27;—Am. 1961, p. 34, Act 33, Imd. Eff. May 18.

PLAT ACT: See Act 172 of 1929, being Compilers' § 560.1 et seq.

41.412 Special assessment district, procedure for establishment or enlargement; petitions, signers. [M.S.A. 5.2412]

Sec. 2. Upon the filing of petitions verified both as to signature and ownership, signed by record owners of land to be made into a special assessment district, in which any of the improvements specified in section 1 are desired by the owners of such land, the township board shall have power to construct and maintain such improvements, to determine the cost thereof, and to create, define and establish a special assessment district within all or within and comprising not less than 80 per centum of such area and upon which district the cost of such improvement shall be levied: Provided, however, That such petition, verined as to signature and ownership, shall have been signed by the record owners of not less than 65 per centum of the land actually created into such special assessment district by said township board, and a district established and assessed may be enlarged through a petition, circulated and signed as required for an original district, but covering only the area to be added to create the enlarged district, and benefits of an improvement extended to the added part and the entire enlarged district assessed for the same, as provided for an original district. The term "improvement" shall include any service authorized hereunder. Where a service has been instituted but no assessment bonds are outstanding therefor, such service may be discontinued upon petition by owners of a like percentage of lands.

HISTORY: Am. 1927, p. 70, Act 58, Imd. Eff. April 21;—CL 1929, 2386;—Am. 1941, p. 300, Act 201, Eff. Jan. 10, 1942;—Am. 1947, p. 211, Act 150, Imd. Eff. June 2.

41.413 Improvement of platted lands; conditions precedent; issuance of bonds; assessment proceedings; deficiency; full faith and credit of township may be pledged. [M.S.A. 5.2413]

Sec. 3. Before commencing any of the above authorized improvements, the township board shall obtain from competent sources, maps, plans and estimates of the proposed improvement, shall determine by resolution the cost of the proposed improvement, and shall provide for the making of a special assessment upon each and every parcel of land in the special assessment district by benefits, and for the issuing and sale of special assessment bonds in anticipation of the collection of said special assessment taxes. No such bonds shall be issued prior to the final confirmation of the assessment roll by the township board. All proceedings relating to the making, levying and collection of special assessments herein authorized and issuing bonds in anticipation of the collection thereof, shall conform, as near as may be, to the proceedings for levying special assessments and issuing special assessment bonds by villages, for like improvements, as set forth in Act No. 3 of the Public Acts of Michigan for 1895, as amended, being sections 61.1 to 75.12, inclusive, of the Compiled Laws of 1948. If any such special assessment fund is insufficient to pay such bonds and interest thereon when due and said bonds shall have been issued subsequent to the twenty-first day of April, 1927, the township board may advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by reassessment of the deficiency if necessary: Provided, however, That as to any bonds issued subsequent to July 1, 1951, the township board may, at the time of issuance, pledge the full faith and credit of the township for the payment of the same and if any special assessment fund is insufficient to pay such bonds and interest thereon when due the township board shall advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by re-assessment of the deficiency against such special assessment district, if necessary

HISTORY: Am. 1927, p. 71, Act 58, Imd. Eff. April 21;—C.L. 1929, 2387;—Am. 1934, 1st Ex. Ses., p. 100, Act 24, Imd. Eff. March 28;—Am. 1951, p. 33, Act 32, Imd. Eff. May 3.

41.413a Waterworks; board of commissioners; election; terms. [M.S.A. 5.2413a]

Sec. 3a. Any waterworks established under the provisions of this act, and any other service provided hereunder for a district having a waterworks, shall be under the control of and operated by a board of public service commissioners: Provided, That in incorporated villages such improvements or service shall be under the control of and operated by the common council or board of trustees of any said incorporated village. Said district board shall consist of 5 commissioners to be elected at the annual township election by the qualified electors residing in the district. Any vacancy on said board shall be filled by the remaining members of the board until the next annual township election, at which election the vacancy shall be filled for the unexpired term. The members of said board shall be residents of the district. The township clerk shall call a special township election, upon the filing with said clerk of a petition signed by 25 residents of the district, for the election of the members of said board to hold office until the next annual township election: Provided. That the members of the board and the electors qualified to vote therefor shall have the qualifications hereinbefore set forth: Provided, further, That at the first election held under this act, 2 commissioners shall be elected for a term of 3 years, 2 commissioners shall be elected for a term of 2 years and 1 commissioner shall be elected for a term of 1 year; thereafter commissioners shall be elected for a term of 3 years. The commission shall have authority to hire necessary employees to carry out the purpose of this act. The provisions of this section shall not apply to waterworks facilities constituting a part only of a general township water system.

HISTORY: Add. 1935, p. 106, Act 68, Imd. Eff. May 18;—Am. 1937, p. 613, Act 318, Imd. Eff. July 27;—Am. 1941, p. 301, Act 201, Eff. Jan. 10, 1942.

41.414 Special assessment installments; limitations, collection; appeal; district or village maintaining waterworks. [M.S.A. 5.2414]

Sec. 4. No special assessment installments shall be levied upon any property in excess of 15 per cent of its assessed valuation for the cost of any such improvements in any 1 year and the total assessment installments for any year for any combination of such improvements, regardless of the year in which such assessment installments are levied shall not be in excess of 45 per cent of its assessed valuation. The collection of all such special assessments shall be by installments as provided by Act No. 3 of the Public Acts of Michigan of 1895, as hereinabove specified: Provided, That assessments for paving or for street markers and lamp-posts and any combinations including paying may be divided into any number of annual installments not exceeding 10: And provided further, That assessments for the construction or extension of sanitary sewers, or water mains to provide water for fire protection and domestic uses, and any combinations including the construction or extension of sanitary sewers, or water mains to provide water for fire protection and domestic uses. or for the construction of filtration plants, may be divided into any number of annual installments not exceeding 20: And provided further, That assessments for the purchase or construction of waterworks or sewage disposal plants may be divided into any number of annual installments not exceeding 40. An appeal may be taken from the assessment of the supervisor to the board of commissioners provided for under section 3a of this act, said board to act as a board of review, and to have the same powers, duties and be governed by the same procedures and the same legal consequences as the board of review provided for in the general tax laws of this state: Provided further, That where a village or district is served by a waterworks, water reservoir, or aqueduct to a source of water supply established without expense to the township at large, such works shall not be tapped for the purpose of supplying water outside of such village or district if such tapping shall seriously deplete or imperil the water supply or pressure of such village or district, and in no case tapped without the consent of the board of commissioners aforesaid; and where a village or district is

served by any public service described in this act, which has been established in the first instance and is being operated without any expense to the township, no part of any tax or assessment shall be levied by the township upon such village or district for the purpose of establishing or operating a similar improvement or facility for other parts of the township.

HISTORY: Am. 1927, p. 71, Act 58, Imd. Eff. April 21;—Am. 1929, p. 575, Act 232, Eff. Aug. 28;—CL. 1929, 2388.—Am. 1931, p. 356, Act 204, Eff. Sept. 18.—Am. 1937, p. 614, Act 318, Imd. Eff. July 27.—Am. 1941, p. 301, Act 201, Eff. Jan. 10, 1942.—Am. 1947, p. 148, Act 110, Eff. Oct. 11.

NOTE: Act 3 of 1895, above referred to, is Compilers' \$\$ 61.1 to 75.12.

41.415 Improvements in platted lands in townships and villages; special assessments on corner lots, portion payable by township. [M.S.A. 5.2415]

Sec. 5. The governing body of any township, by resolution, may agree to pay up to 1/3 of the cost of the special assessments levied against any platted corner lot for the payment of public improvements authorized under the provisions of this act.

HISTORY: Add. 1959, p. 254, Act 178, Eff. Mar. 19, 1960.

PARKS

Act 157, 1905, p. 220; Eff. Sept. 16.

An act to authorize a township or townships to acquire by gift or devise real estate and to own and control the same for a public park, resort, bathing beach or other place of recreation; to provide for a board of commissioners therefor and to authorize said township or townships, by a limited tax on the property in such township or townships, to maintain such park or resort and to make rules and regulations for the control and government of the same.

The People of the State of Michigan enact:

41.421 Township parks; board of commissioners; condemnation. [M.S.A. 5.24411

Any township or townships, being a contiguous or adjacent territory, may acquire by gift or devise a tract of real estate which shall be contiguous or adjacent to the territory acquiring the same for a free public park, resort, bathing beach or other place of recreation, and may hold such real estate in fee simple for such purposes. The supervisor of each of such townships shall comprise a board of commissioners for the control of such park or resort and in case any such supervisor shall decline to act as such commissioner, then the township board shall designate a member of the township board to act as such commissioner. In case there is only 1 township interested in such park, then the township board shall be the board of commissioners. Such commissioners shall act in that capacity during the term of office to which they were elected respectively in their townships and until their successors are elected and qualified.

Such commission shall have authority in the name or names of the interested township or townships to condemn land for such purpose in accordance with the condemnation laws of this state.

HISTORY: CL 1915, 2192;—CL 1929, 2400;—Title and Sec. 1 Am. 1941, p. 535, Act 308, Eff. Jan. 10, 2,—Am. 1964, p. 37, Act 32, Imd. Eff. May 4.
Title Am. 1964, p. 37, Act 32, Imd. Eff. May 4.

41.422 Same; rules and regulations; leases; liquor; admission charges. [M.S.A. 5.2442]

Sec. 2. The board of commissioners shall have the power to adopt rules and regulations for the use and maintenance of such place of recreation, including the hours which the same shall be open to the public, and may make leases for the purposes of erecting cottages and other necessary buildings under such rules and regulations as it deems expedient. Under any such lease no spirituous or malt liquors shall be sold on the premises. Any person who violates the rules and regulations is guilty of a misdemeanor. A charge for admission may be made by the board, but the charge shall not exceed the charge for admission to state parks of this state. Funds received from such admissions shall be used for the improvement of the places of recreation.

HISTORY: C.L. 1915, 2193;—C.L. 1929, 2401;—Am. 1941, p. 535, Act 308, Eff. Jan. 10, 1942;—Am. 1964, p. 37, Act 32, Imd. Eff. May 4.

41.423 Board officers, election, duties; treasurer's bond. [M.S.A. 5.2443]

Sec. 3. The said board of commissioners shall annually elect 1 of its members as president. It shall elect a secretary and treasurer, and may appoint such other officers or employes as it may deem necessary. The secretary shall keep a correct record of all the transactions of the board of commissioners, which shall be a public record, and may be inspected at all times by any taxpayer residing in any township owning an interest in any such park or resort as a grantee. The treasurer shall give a bond in the penal sum of 6 000 dollars.

HISTORY: CL 1915, 2194; -CL 1929, 2402.

41.424 Acquisition plan; disbursements; referendum; adoption, record. [M.S.A. 5.2444]

Sec. 4. Any plan for the securing such park or resort shall fully set forth the premises which it is intended to occupy as a park or resort, and specify the sum which each of said townships will raise by tax each year for the maintenance and support thereof, which shall not be less than ½0 of a mill nor more than 5 mills on the respective valuations of each of said townships. Said moneys so received shall be paid to the treasurer of said board of commissioners, and shall be paid out on orders drawn on him, signed by the chairman and secretary of said board of commissioners. The full proposition shall be submitted to the qualified electors of each township at a regular or special election, and if adopted by a majority vote shall be a binding contract on such township, and if adopted, shall be recorded in the office of the register of deeds in the county or counties in which said lands shall be situated. The manner of conducting, noticing, canvassing, returning and declaring the result of such election shall, as near as may be, be the same as is now prescribed by the general election law governing elections in said townships for the election of township officers.

HISTORY: C L 1915, 2195;-C L 1929, 2403.

41.425 Tax exempt. [M.S.A. 5.2445]

Sec. 5. So much of the estate, both real and personal, as is owned by such township or townships shall be exempt from taxes, but all improvements under lease for private use shall be liable to be taxed.

HISTORY: CL 1915, 2196;-CL 1929, 2404.

WATERWAYS IMPROVEMENTS

Act 286, 1923, p. 456; Eff. Aug. 30.

AN ACT to enable townships to construct and maintain wharfs, piers, docks and landing places for the use and benefit of the public.

The People of the State of Michigan enact:

41.481 Public docks, township ownership; authorizing vote. [M.S.A. 5.2391]

Sec. 1. Any township in this state abutting upon any navigable waters may acquire, construct and maintain wharfs, piers, docks and landing places for the use and benefit of the public, and may lease and control the same, and the township board shall act for said township in acquiring, constructing and maintaining the same when authorized so to do by the affirmative vote of % of the qualified electors of said township voting thereon at any general election or at any special election, at which the same shall be submitted.

HISTORY: CL 1929, 2382.

41.482 Same; powers; proceedings. [M.S.A. 5.2392]

Sec. 2. Any and all proceedings had or taken under this act shall be had and taken by said township board who are hereby vested with all the power and authority usually exercised by the highway commissioner of said township in acquiring land for laying out, constructing and maintaining highways, and said township board shall have the right to acquire land for said wharfs, piers, docks and landing places and to lay out, construct and maintain the same in accordance with the same proceedings so far as applicable, as are required to be taken by the highway commissioner of the township for acquiring land and

constructing and maintaining highways, and the general highway law is hereby extended to include said wharfs, piers, docks and landing places, and made applicable thereto, subject to the provisions herein contained.

HISTORY: C L 1929, 2383.

WEED CONTROL

Act 41, 1955, p. 50; Imd. Eff. April 21.

AN ACT to authorize township boards to appropriate money for the purpose of controlling weeds in inland lakes.

The People of the State of Michigan enact:

- 41.671 Weed control in inland lakes; appropriation by township. [M.S.A. 5.265(1)]
- Sec. 1. It shall be lawful for the township board of any township in this state, upon receipt of a petition signed by 25 freeholders residing within the township requesting such work to be done, and they may appropriate money from the contingent or general fund for the purpose of controlling weeds in inland public lakes situated within the township proper.

41.672 Same; joint action with other townships. [M.S.A. 5.265(2)]

- Sec. 2. It shall be lawful for the township board of any township in this state to appropriate money from its contingent or general fund for entering into agreements with any other township or townships in this state for the purpose of controlling weeds in any inland public lake or public lakes situated within more than 1 township of this state.
- 41.673 Same; use of poison. [M.S.A. 5.265(3)]

Sec. 3. Poison shall not be used for the purpose of weed control in any inland lake unless it is used with the consent of, and under the supervision of, the department of conservation.

FIRE PROTECTION, OTHER PURPOSES

Act 96, 1951, p. 127; Eff. Sept. 28.

An act to authorize the township board of any township where there are lands serviced by a revenue bond water system to provide by special assessment for the payment of the reasonable cost and value of such water service for fire protection within the district served by said water system through fire hydrants and water mains.

The People of the State of Michigan enact:

- 41.831 Township water service for fire protection; assessment for cost and value. [M.S.A. 5.2770(31)]
- Sec. 1. In any township where there are lands serviced by a water system financed by revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.138, inclusive, of the Compiled Laws of 1948, having water service available for fire protection through fire hydrants and water mains, the township board may determine by resolution that the reasonable cost and value of such water service for fire protection within the district served by said water system shall be borne by special assessment levied annually, while bonds are outstanding, against all of the real property located within such district.

Title Am. 1965, p. 466, Act 272, Imd. Eff. July 21.

- 41.832 Same; boundaries; estimate of cost and value; payment. [M.S.A. 5.2770(32)]
- Sec. 2. Such resolution of the township board shall designate the boundaries of such district, estimate and determine the reasonable annual cost and value of such water service for fire protection, determine what portion of such annual fire protection cost should be paid for by special assessment because of benefits and what portion, if any, should be paid by the township out of general funds.

41.833 Same; funds for which may be used. [M.S.A. 5.2770(33)]

Sec. 3. The township board may use any unappropriated moneys in its general fund for this purpose, including moneys received under the provisions of section 23 of article 10 of the Michigan constitution.

41.834 Public hearing. [M.S.A. 5.2770(34)]

Sec. 4. The township board shall fix a date for a public hearing upon the establishment of such district, the properties to be included therein, the estimate of the reasonable cost and value of the fire protection afforded annually, and the assessments to be levied against the respective lots comprised within said district.

41.835 Assessment levy. [M.S.A. 5.2770(35)]

Sec. 5. The township board shall thereupon direct such an assessment to be prepared by the township supervisor who shall levy the total sum estimated of fire protection benefit apportioned in accordance with benefits against all of the property located within said special assessment district benefited by such fire protection water service. The township supervisor shall thereupon report such assessment to the township board, which report shall be made before the date of said hearing.

41.836 Same; method, collection. [M.S.A. 5.2770(36)]

Sec. 6. Such assessment may be made either on a special assessment roll or in a column provided therefor on the regular township tax roll. After it has been confirmed it shall become due and collected at the same time as other township taxes fall due and are collected, and shall be returned in the same manner for non-payment if not paid.

41.837 Notice of hearing; publication, posting. [M.S.A. 5.2770(37)]

Sec. 7. The township board shall thereupon give notice of such meeting and the time, place and purpose thereof by publishing a notice in a newspaper of general circulation in the district so proposed to be assessed, but if no newspaper is circulated therein, then notice shall be posted in at least 3 of the most public and conspicuous places in the district; such notice whether by publication or by posting shall be given at least 5 days before the date set for hearing.

41.838 Hearing of objections; changes, corrections or modifications. [M.S.A. 5.2770(38)]

Sec. 8. The township board shall hold and conduct said public hearing, and hear and consider all objections relative to the establishment of such district, the boundaries thereof and the properties to be included therein, the total amount so proposed to be assessed, the respective individual assessments so proposed on the individual properties thereof and after concluding said hearing shall determine whether or not said district shall be established and such assessments be levied.

It may change, correct and modify the district or the special assessments thereof as it deems equitable in accordance with benefits.

41.839 Review, etc., of assessment roll. [M.S.A. 5.2770(39)]

Sec. 9. If the township board approves the establishment of such district it shall review, correct and confirm the assessment roll and direct that the same be collected forthwith in the same manner as other township taxes are collected.

41.840 Annual assessment, levy; further hearings. [M.S.A. 5.2770(40)]

Sec. 10. After the creation of said special assessment district, and while bonds are still outstanding, the township board may annually determine the amount to be assessed in said district and thereafter levy a like amount of annual assessments as special assessments against the benefited properties within said district.

No further hearings shall be had unless a change in the amount of annual assessment against any individual property be contemplated or attempted.

41.841 Special assessment limitation. [M.S.A. 5.2770(41)]

Sec. 11. No such special assessment shall be levied against any property in any 1 year in excess of 20 cents per front foot, nor shall any such assessment exceed 5 per cent of the assessed valuation of said property in any 1 year.

Act 207, 1953, p. 294; Eff. Oct. 2.

AN ACT to authorize township boards of certain defined townships to contract with cities or villages for the furnishing of water to such townships for fire protection and other purposes; to authorize such township boards to borrow funds necessary to acquire and install township water supply facilities required by such water supply contracts; to authorize persons, firms, corporations, banks and trust companies to loan funds for such purposes; to authorize such township boards to pledge sales tax diversion funds accruing to such townships for the purpose of securing payment of funds so borrowed; and to authorize township boards of such defined townships to enact such ordinances as may be necessary to effectuate the foregoing.

The People of the State of Michigan enact:

41.871 Water for fire protection, etc.; township authorized to contract for. [M.S.A. 5.2600(1)]

Sec. 1. The township board of any township now or hereafter having a population of 5,000 or over, according to the latest or each succeeding federal decennial census, is hereby authorized to contract with any city or village for the supplying to such township of water for fire protection and domestic purposes, under such terms and conditions as may be agreed upon between said township board and the legislative body of such city or village.

41.872 Same; borrow money, permission, limitation. [M.S.A. 5.2600(2)]

Sec. 2. The township board of any such township is hereby authorized to borrow, but subject to prior permission of the municipal finance commission, such sums of money as may be necessary to acquisition and installation by such township of water supply facilities, including water mains and elevated water tanks which are required of such township by the terms of any such water supply contract, any previously enacted statute to the contrary notwithstanding: Provided, That at no time shall the total outstanding indebtedness under this act exceed \$250,000.

41.873 Notes; installments, interest, redemption, computation, appropriation, separate fund. [M.S.A. 5.2600(3)]

Sec. 3. All notes issued hereunder shall be subject to the following provisions:

- (a) Shall be payable in annual installments the aggregate of which shall not exceed 10, the first of which shall be due not later than August 1st of the next succeeding calendar year and subsequent maturities, if any, shall likewise be payable August 1st; shall bear interest at a rate or rates not exceeding 4% per annum, payable semi-annually, and may be made subject to redemption on any interest payment date prior to maturity at par and accrued interest on such terms and conditions as shall be provided in the authorizing resolution.
- (b) For the purpose of computing the amount or amounts which may be borrowed, a loan made hereunder shall not, when payable, as hereinafter set forth, exceed that percentage of the total aggregate revenues derived from sales tax funds received by the township for the 5 calendar years next preceding:

(1)	In	10	installments	40%
(2)	In	9	installments	36%
(3)	In	8	installments	32%
(4)	In	7	installments	28%
(5)	In	6	installments	24%
(6)	In	5	installments	20%

(7)	In	4	installments	16%
(8)	In	3	installments	12%
(9)	In	2	installments	8%
(10)	In	1	installment	4%

(c) The resolution authorizing such borrowing shall contain an irrevocable appropriation providing for the payment of the principal and interest thereof from the moneys to be derived from state collected sales tax returned to the township, and thereafter the township treasurer shall set aside in a separate fund from such revenues received in each year an amount sufficient for the payment of the principal and interest of such loan maturing August 1st next. At no time shall the full faith and credit of the township be pledged.

41.873a Same; approval, sale. [M.S.A. 5.2600(3a)]

Sec. 3a. The municipal finance commission may in its discretion approve or deny, in whole or in part, such borrowing and the issuing of notes therefor. Notes authorized hereunder shall be advertised and sold as provided by section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943 as amended.

41.874 Same; pledging sales tax funds, ordinance. [M.S.A. 5.2600(4)]

Sec. 4. To secure repayment of any loan authorized by the terms of this act, such township board is hereby authorized to pledge, by ordinance as herein provided, all or any specified portion of sales tax funds to be received by such township, under and by virtue of the sales tax diversion amendment of the constitution, during the period such loan remains outstanding.

41.875 Ordinance; provisions. [M.S.A. 5.2600(5)]

Sec. 5. Such ordinance may if desired provide that the county treasurer, or other official charged with disbursement of sales tax funds returnable to such township pursuant to such amendment of the constitution, shall withhold and pay to the lending person, firm, corporation, bank or trust company such of the constitutionally allocated funds of such township as may be necessary to proper fulfillment of such pledge.

41.876 Same; adoption, effective date, recording, publication. [M.S.A. 5.-2600(6)]

Sec. 6. For the purpose of this act, such township board, by the affirmative vote of a 2/3 majority of its members, is authorized to adopt an ordinance or ordinances relating to the exercise of the powers herein granted and to any other matters necessary or desirable to effectuate the full intent and purpose of this act, including provisions for control and maintenance of such water supply facilities, charges for rights of connection with such facilities for water service, charges for water delivered by means of such facilities, and such other provisions as will insure the proper and adequate operation of such facilities. Any ordinance adopted hereunder shall become effective at expiration of 30 days next following the date of its publication unless, during such 30 day period and in accordance with section 8 hereof, a referendum thereof to the electors of such township is petitioned. Any such ordinance shall be recorded in the minutes of the meeting of such township board as soon as practicable after its adoption, which record shall be authenticated by the signatures of the supervisor and clerk of such township. Such ordinance shall be published promptly after its adoption in a newspaper of general circulation within such township. The publication of such ordinance as a part of the minutes of the meeting at which it was adopted shall be deemed a publication in conformity with this act. Except as otherwise provided herein. the provisions of this section shall constitute the sole requirements in respect to the adoption and publication of any such ordinance and shall not be limited by other statutory provisions.

41.877 Same; petition for referendum, signatures, verification. [M.S.A. 5.-2600(7)]

Sec. 7. If, within 30 days from the publication of such ordinance, a petition signed by not less than 10 per centum of the registered electors residing within the limits of such township shall have been filed with the township clerk requesting a referendum upon the effectiveness of such ordinance, then such ordinance shall not become effective until approved by vote of a majority of the electors of such township qualified to vote and voting thereon, at a general or special election. Signatures on any such petition shall be verified by some person or persons under oath as the actual signatures of persons whose names are signed thereto, and the township clerk shall have the same power to reject signatures and petitions as city clerks possess by law. The number of registered electors in such township shall be determined by the township registration books.

41.878 Powers granted. [M.S.A. 5.2600(8)]

Sec. 8. The powers herein granted shall be in addition to those heretofore granted such defined townships by other statute.

COUNTY BOARDS OF SUPERVISORS

CONSTRUCTION ON STREAMS

Act 156, 1851, p. 231; Imd. Eff. April 8.

AN ACT to define the powers and duties of the boards of supervisors of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act.

Title Am. 1937, p. 318, Act 199, Imd. Eff. July 20.

The People of the State of Michigan enact:

46.21 Board of supervisors; streams, control powers. [M.S.A. 5.344]

Sec. 21. Every such board of supervisors shall have power within their respective counties, to permit or prohibit the construction of any dam or bridge over or across any navigable stream. They shall also have power to provide for the removal of any obstruction arising from the erection of booms or the collecting of logs or rafts in such streams, by any individual; and to direct the time in which, and places where, persons having logs, rafts and boats in such streams shall be allowed to remain, and when the same shall be removed; and may impose such penalties as they deem necessary to enforce such regulations, and authorize the sheriffs or their deputies to carry into effect the regulations made under the provisions of this act.

HISTORY. Am. 1851, p. 272, Act 165, Imd. Eff. June 21;—CL 1857, 355;—CL 1871, 487;—How. 493;—CL 1897, 2494;—CL 1915, 2284;—CL 1929, 1143.

46.22 Board of supervisors; dams, construction petition; notice by registered mail to owners of land; proceedings. [M.S.A. 5.345]

Sec. 22. Whenever any person or persons, or any corporation, shall wish to construct a dam across any such stream as is mentioned in the preceding section, such person or persons. or corporation, shall present to the board of supervisors or file with their clerk, to be presented to them at their next meeting, a petition praying for leave to construct such dam. and setting forth the purpose, location, height and description of such dam, and whether it is proposed to construct a lock, or shute, or apron, and of what description for the passage of boats, vessels, rafts, or timber and before the same shall be heard and determined by such board, it shall be made to appear to the board that notice of such application, signed by the petitioners, and stating substantially the contents of such petition, has been published in some newspaper in general circulation in each county through which such stream runs at least 3 weeks previous to the hearing of such application, and such notice shall also be sent by registered mail return receipt demanded to the last known address of all owners of lands affected as shown by the records of the tax rolls in the office of the county treasurer in the county or counties in which such lands lie, and on such hearing any person or persons shall be heard in favor of and in opposition to the prayer of the petition; and such board may adjourn such hearing to any other time or place; and they may grant or refuse the prayer of such petition, and the determination shall be entered at length upon the record of said board; and if such board shall allow the said dam to be constructed, the petitioners shall be at liberty to construct the same by complying fully with the terms and conditions set forth in their petition; and after having obtained such right, and constructed such dam. such petitioners, their heirs, successors or assignees may, if such dam be destroyed, or decayed, construct a new dam, subject to all the same terms and conditions, on the same site, without again applying to such board: Provided. That nothing in this act contained shall be construed as giving to such board of supervisors any power to grant the right to any person or persons, or corporation, to flow, or in any manner to take, or injure the lands of any person or persons, by, or in consequence of constructing such dam: Provided further. That when a petition to construct a dam across a navigable stream is presented to the board of supervisors or filed with their clerk, a copy of such petition shall be forwarded by the clerk to the secretary of the conservation commission at Lansing, together with notice of date and place of hearing on said petition.

HISTORY: CL 1857, 356;—CL 1871, 488;—Am. 1873, p. 177, Act 129, Imd. Eff. April 22;—How 494;—CL 1897, 2495;—CL 1915, 2285;—CL 1929, I144;—Am. 1951, p. 38, Act 36, Eff. Sept. 28.

46.23 Same; bridges, construction petition; proceedings; limitation.

Sec. 23. Whenever any person or persons, township officers or corporation, shall wish to construct any bridge across any stream at a point where the same is navigable for boats or vessels of 15 tons burden or more, they shall apply to the board of supervisors by petition, and shall give notice of the same in like manner, as near as may be, as provided in section 22 of this act; and the powers and the mode of proceeding of such board, shall be the same, as near as may be, as provided in the last named section. Every such petition shall set forth the kind and description of the bridge proposed to be constructed, and whether the same is to be constructed with a draw, or whether any and what provision is to be made for the passage of vessels or boats; and such board shall have the power to grant or refuse the prayer of such petition, upon such terms as they may deem just and reasonable, and to prescribe what description of bridge may be constructed, or to prohibit the construction of any bridge on the proposed location, as in their judgment the public interest shall require.

HISTORY: C.L. 1857, 357;—C.L. 1871, 489;—How. 405;—C.L. 1807, 2496;—C.L. 1915, 2286;—C.L. 1929, 1145.

46.24 Same; bridges, construction rules; limitation. [M.S.A. 5.347]

Sec. 24. Every such board of supervisors shall have power to make general rules and regulations as to the kind of bridges, and the mode of constructing the same over any such stream, as mentioned in section 21 of this act, when such stream shall not be navigable for boats or vessels of 15 tons burden, or to grant permission for building the same, without the notice or hearing above provided, in such manner as shall be judged proper with reference to the passage of boats, rafts and timber.

HISTORY: CL 1857, 360;—CL 1871, 490;—How, 496;—CL 1897, 2497;—CL 1915, 2287;—CL 1929, 1146.

PUBLIC WATER AND SEWAGE SYSTEMS

Act 342, 1939, p. 894; Eff. Sept. 29.

An act to authorize counties to establish and provide connecting water, sewer and/or sewage disposal improvements and services within or between cities, villages, townships and township improvement districts, or any duly authorized and established combinations thereof, within or without the county, and to establish and provide garbage and or rubbish collection and disposal facilities and services for such units of government or combinations thereof, and for such purposes to acquire, purchase, construct, own, maintain and/or operate water mains and trunk and connecting lines, water pumping and purification plants, sewers, sewage interceptors, sewage disposal plants, settling basins, screens and meters, and incinerators and disposal grounds; to authorize counties to establish, administer, coordinate and regulate a system or systems of water, sewer and or sewage disposal improvements and services, and garbage and rubbish collection and disposal facilities and services, within or between such units of government; to provide methods for obtaining money for the aforesaid purposes; to authorize counties to extend by laterals and connections, and to construct, improve, repair, manage and or operate water, sewer and/or sewage disposal improvements and garbage and rubbish collection and disposal facilities and services of and situated within such cities, villages, townships and township improvement districts or any duly authorized and established combination thereof, and provide for the loan of money to such units of government for said purposes and the repayment thereof by agreements therefor; to provide methods for collection of rates, charges and/or assessments.

The People of the State of Michigan enact:

46.171 County water and sewage disposal systems, garbage and rubbish collection; establishment; definitions. [M.S.A. 5.2767(1)]

Sec. 1. The board of supervisors of any county may, by resolution adopted by a majority vote of its members-elect at any regular or special session of said board, authorize and direct that there be established a system or systems of water, sewer and/or sewage disposal improvements and services and garbage and/or rubbish collection and disposal facilities and services within or between cities, villages, townships and township improvement districts, or any duly authorized and established combinations thereof, within or without the county, and mains, trunks, connecting lines and disposal facilities therefor. For such purposes the agency of the county hereinafter designated shall locate, acquire, purchase, construct, own, maintain and or operate water mains and trunks and connecting lines, water pumping and purification plants, sewers, sewage interceptors, sewage disposal plants, settling basins, screens and meters, and incinerators and disposal grounds and facilities, as shall be decribed in maps, plans and specifications therefor and be approved by the board of supervisors and/or contract with any such units of government, or any duly authorized and established combinations thereof for the purchase of water and for the use of their sewers and sewage disposal plants and garbage and or rubbish collection and disposal facilities and regulate systems for water, sewer and sewage disposal improvements and services within or between, and garbage and rubbish collection and disposal facilities and services not units of government.

The term "sewers" as used in this act shall be defined as including interceptor sewers for the transportation of either sewage or storm water or both sewage and storm water, storm sewers, sanitary sewers, combined sanitary and storm sewers and all instrumentalities, facilities and properties used or useful in connection with the collection of sewage and or storm water.

The term "garbage and or rubbish collection and disposal facilities" as used in this act shall be defined as including incinerators, disposal grounds and all instrumentalities facilities and properties used or useful in connection with the collection and disposal of garbage and rubbish.

The term "unit of government" or "units of government" as used in this act, shall be defined as including cities, villages, townships, township improvement districts and any duly authorized and established combinations thereof within or without the county establishing any of the improvements, facilities or services authorized under this act.

The terms "improvements", "facilities" and "services" as used in this act shall mean any of the improvements, facilities and services authorized under the provisions of this section.

HISTORY: Am. 1941, p. 611, Act 353, Eff. Jan. 10, 1942; Am. 1952, p. 83, Act 74, Eff. Sept. 18 Am. 1933, p. 243, Act 186, Inid. Eff. June 9.

Title Am. 1941, p. 611, Act 353, Eff. Jan. 10, 1942; Am. 1953, p. 242, Act 186, Imid. Eff. June 9.

46.171a County public improvements; short title of act. [M.S.A. 5.2767(1.1)]

Sec. 1a. This act shall be known and may be cited as the "County Public Improvement Act of 1939".

HISTORY: Add. 1963, p. 3, Act 1, Imd. Eff. Feb. 26.

46.172 Same; contracts with and loans to governmental units. [M.S.A. 5.2767(2)]

Sec. 2. Any county having determined to establish and provide any of the improve ments, facilities and services authorized under the provisions of section 1 hereof, is further authorized to extend by laterals and connections, and to improve, repair, manage and or operate any such improvements, facilities and service of and situated within any units of government by terms of agreements therefor to be entered into between such county and said units of government, and subject to the conditions hereinafter provided.

Such county may loan money to such units of government for said purposes and obtain repayment thereof by agreement therefor and subject to the conditions hereinafter provided. HISTORY Am. 1953, p. 244, Act 186, Imd. Eff. June 9.

46.173 County water, sewage disposal, garbage and rubbish collection service; county agency, designation, duties. [M.S.A. 5.2767(3)]

Sec. 3. Whenever the board of supervisors of any county shall have determined to establish and provide any of the improvements, facilities or services hereinbefore authorized it shall designate the "county agency" therefor which shall be the board of county road commissioners or the drain commissioner of the county as may be determined by

resolution of the board of supervisors. In counties having a population of more than 1,000,000, the board of supervisors may designate as the county agency the board of county road commissioners, the drain commissioner or the board of public works of the county as may be determined by resolution of the board of supervisors. Before commencing any such improvements, facilities or services, or entering into any contract with any other unit of government for supply or use of any such improvements, facilities and services, the county agency shall prepare or obtain from competent sources and file with the board of supervisors, maps, plans, designs, specifications and estimates of the proposed improvements or facilities. The county agency shall have supervision and control of the management and operation of all improvements, facilities and services established under the provisions of this act and further shall have the following duties and powers: To make and execute proposed alterations, changes and extensions of the improvements, facilities or services authorized herein; to locate, acquire, purchase, construct, alter, repair, maintain and operate the improvements, facilities and services authorized herein and enter into and execute contracts therefor; to obtain or prepare data for and determine rates, charges and/or assessments to be imposed and collected for any improvements, facilities and services authorized herein; to review and make adjustments of rates, charges and assessments where the same are deemed excessive or inadequate; to engage consultants, assistants, attorneys and employees; to act as the applicant, agents or sponsor for the county in the borrowing or loaning of money, issuing of notes or bonds and receiving of any gift or grant of funds or property for the purposes authorized herein; to enter into and execute agreements with units of government, for the use of any such improvements, facilities or services and the collection of rates, charges and/or assessments; and to make all necessary rules and regulations governing the use and operation of such improvements, facilities or services.

HISTORY: Am. 1941, p. 611, Act 353, Eff. Jan. 10, 1942; —Am. 1953, p. 244, Act 186, Imd. Eff. June 9, —Am. 1961, p. 360, Act 213, Eff. Sept. 8.

46.174 Rates, charges or assessments; determination; repair and replacement. [M.S.A. 5.2767(4)]

Sec. 4. Whenever the board of supervisors of any county has authorized and directed the establishment of any of the improvements, facilities or services authorized by this act, the county agency shall establish just, equitable and uniform rates, charges and/or assessments to be paid to such county for the services rendered thereby. The complete and actual cost of improvements and financing thereof may be included in the amounts fixed for rates, charges and/or assessments for services rendered by the county. The legislative intent is herein expressed that the rates, charges and/or assessments to be collected by the county constitutes revenue and not a debt or tax of the county, and the amount thereof shall not be subject to or limited by article X, section 21, constitution of the state of Michigan and statutes applicable thereto. Where the improvements or facilities are to be acquired, constructed and financed pursuant to the provisions of sections 5a, 5b and 5c of this act, such rates, charges, and/or assessments for services rendered by the improvements or facilities shall be levied in an amount sufficient to cover all operation and maintenance costs with provision for reasonable reserves for repair and replacement.

provision for reasonable reserves for repair and replacement.

HISTORY Am 1941, p. 612, Act 353, Eff. Jan. 10, 1942. Am. 1952, p. 83, Act 74, Eff. Sept. 18: Am 1983, p. 244, Act 186, Imd. Eff. June 9.

46.175 Agreements with governmental units for service; levy and collection of charges or assessments; lien, enforcement as tax. [M.S.A. 5.2767(5)]

Sec. 5. The county agency and any unit of government may enter into agreements for a term up to but not exceeding 40 years whereby the unit of government shall pay the county for the services provided by any improvements and facilities authorized by the provisions of this act, including the cost of construction and maintenance of the same, from funds collected as rates, charges or assessments from the users and beneficiaries of such improvements, facilities and services, or from any other fund available which may be validly used for such purposes. Any contracting unit of government may raise the amounts required to be paid under such agreements by collecting tapping

charges, and rates, charges or assessments from the users and beneficiaries of such improvements, facilities and services within that unit of government, or by levy upon the taxable property of any contracting city, village, township or township improvement district in accordance with the same procedure as provided under the general tax laws of the state. The county agency may also enter into agreements with units of government providing that the county agency shall collect the tapping charges, and rates, charges or assessments for the services furnished, directly from the users and beneficiaries thereof. The county agency may enter into similar agreements with the county drain commissioner on behalf of any drain district, or with the drainage board on behalf of any inter-county drainage district, for the connection of any drain with any county sewer or sewage disposal system and for the collection by the county of tapping charges, rates and charges for the services of such county system from the users or beneficiaries thereof through connection with such drain. The county agency or such units of government in accordance with such agreements shall have the right to shut off such services and deny the use of such improvements or facilities to any user or beneficiary thereof failing to pay any of the rates, charges or assessments as fixed. Such rates, charges or assessments for water, sewage and sewage disposal services may be fixed in accordance with the amount of water used as measured by water meter readings or by such other methods as may be deemed equitable. Any such rates, charges or assessments shall constitute a lien on the premises served, effective immediately upon the rendering of services thereto and the official records of the agency charged with the collection thereof constitute notice of the pendency of the lien. Any such rates, charges or assessments remaining unpaid and delinquent for a period of 6 months or more may be certified by the agency charged with the collection thereof to the tax assessing officer or agency of the taxing district wherein the lands served are located and shall then be entered upon the county tax rolls against the premises to which such services shall have been rendered. The same shall be collected and the lien shall be enforced in accordance with the provisions of the general tax laws of the state.

HISTORY Am. 1941, p. 611, Act 353, Eff. Jan. 10, 1942; Am. 1953, p. 244, Act 186, Imd. Eff. June 9, Am. 1961, p. 360, Act 213, Eff. Sept. 8,

46.175a Alternative method of financing; contracts; taxation. [M.S.A. 5.2767(5.1)]

Sec. 5a. As an additional or alternative method of acquiring and constructing any of the improvements or facilities authorized by this act, the county agency and any city, village or township are authorized to enter into contracts providing for the acquisition, construction and financing of improvements or facilities in the manner herein authorized. The contracts shall provide for the allocation and payment of the share of the total cost thereof to be borne by each city, village or township in annual installments for a period of not exceeding 40 years, and each contracting city, village or township is authorized to pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contracts. For the purpose of making payment of its pledged share of the cost of such improvements or facilities, any contracting city, village or township is authorized to use any, or all, or any combination of the following methods of raising funds necessary therefor: (a) The levy of a tax on taxable property in the city, village or township, which tax, as to any municipal corporation, shall not be subject to any charter or statutory tax limitation; (b) the levy of special assessments on property benefited by such improvements, the procedures relative to the making and collection of such special assessments to conform as near as may be to applicable charter or statutory provisions therefor; (c) the levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the improvement; (d) from moneys received or to be received derived from the imposition of taxes by the state, except as the use of such money for such purpose is expressly prohibited by the state constitution; and (e) from any other funds which may be validly used for such purpose. The contracts may provide for any and all matters relating to the acquisition, construction and financing of the improvements or facilities as are deemed necessary, including the authority to the county agency to issue bonds secured by the full faith and credit contractual pledges of the contracting city, village or township, as authorized by section 5c of this act. The contracts may provide for appropriate remedies in case of default, including, but not limited to, the right of the contracting cities, villages or townships to authorize the county treasurer or other official charged with the disbursement of funds derived from the state sales tax levy under the provisions of Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, and returnable to said governmental units pursuant to section 23, article X of the Michigan constitution, to withhold sufficient funds to make up any default or deficiency in funds.

HISTORY: Add. 1952, p. 83, Act 74, Eff. Sept. 18;—Am, 1953, p. 245, Act 186, Imd. Eff. June 9, Am. 1961, p. 361, Act 213, Eff. Sept. 8.

46.175b Same; resolution, publication; petition, qualifications of signers; election; verification of signatures on petition; refunding of bonds, issuance and sale. [M.S.A. 5.2767(5.2)]

Sec. 5b. Any city, village or township desiring to enter into a contract under the provisions of section 5a hereof shall authorize, by resolution of its governing body, the execution of such contract, which resolution shall be published in some newspaper of general circulation within such city, village or township, and such contract may be executed without a vote of the electors thereon upon the expiration of 30 days after the date of such publication unless, within said 50 day period, a petition signed by not less than 10 per centum of the registered electors residing within the limits of such city, village or township shall have been filed with the clerk thereof requesting a referendum upon the execution of such contract, and in that event such contract shall not be executed until approved by the vote of a majority of the electors of such city, village or township qualified to vote and voting thereon at a general or special election to be held not more than 90 days after the filing of such petition. Whenever any such contract is to be entered into by any township only on behalf of the unincorporated area of the township, only the registered electors residing within the unincorporated area of the township shall be qualified to sign such petition and vote at such election.

Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any such petition shall be verified by some person or persons under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk of the city, village or township shall have the same power to reject signatures as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended. The number of registered electors in any city, village or township shall be determined by the city, village or township registration books.

Where any contracting city, village or township has outstanding any revenue bonds issued under the provisions of Act 94, Public Acts of Michigan 1933, as amended, for the type of improvements or facilities to be constructed pursuant to this act and the contract, such contract may provide for the refunding of said outstanding bonds and the inclusion, in the total financing required for the construction of the improvements or facilities contemplated by this act of an amount sufficient to provide for said refunding, including such call premiums as may be required in the ordinance authorizing their issuance: Provided, however, That nothing herein contained shall be construed as authorizing the refunding of non-callable unmatured bonds without the consent of the holder or holders thereof. Where such refunding is provided for by the contract, any bonds issued pursuant to section 5 (c) of this act may be issued and soid in a sufficient amount to provide additional funds over and above acquisition and construction costs of the new improvements or facilities to enable the contracting city, village or township to retire such outstanding revenue bonds.

HISTORY: Add. 1952, p. 84, Act 74, Eff. Sept. 18; - Am. 1953, p. 246, Act 186, Imd. Eff. June 9.

46.175c Same; bonds, issuance; advancement by county, reimbursement; terms financing; validation of former drain orders or bonds. [M.S.A. 5.2767(5.3)]

Sec. 5c. For the purpose of obtaining funds for the acquisition and construction of the improvements or facilities authorized by this act, the county after the execution of the contract or contracts authorized by sections 5a and 5b of this act, upon ordinance or resolution adopted by its board of supervisors, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting city, village and township pursuant to authorization contained in this act and the contract or contracts entered into pursuant to said sections 5a and 5b. Said bonds shall be serial bonds, payable in annual installments, for a period of years not exceeding 40 and shall be issued and sold, subject to all other applicable provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, including the requirement that the permission of the commission shall be given to the issuance of bonds, but bonds heretofore issued under this section shall be valid notwithstanding the lack of such permission. Said bonds shall not pledge the full faith and credit of the issuing county except as hereinafter provided. As additional security for the payment of the principal of and interest on any bonds issued under the provisions of this section, any issuing county may, upon proper resolution adopted by a majority vote of the members-elect of its board of supervisors, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on such bonds. In the event the county shall be required to advance any money by reason of such pledge on account of the delinquency of any contracting city, village or township then it shall be mandatory for the county treasurer to deduct and withhold from any moneys the use of which is not specifically restricted for other purposes by law and which shall subsequently come into his hands belonging to such delinquent city, village or township, an amount sufficient to reimburse the county for any such advancement, but the county treasurer shall not withhold in any one year a sum greater than 25% of the total amount owed the county by such delinquent city, village or township on account of such advancements. Such moneys, when so withheld by the county treasurer, shall be paid into the general fund of the county. The right of deduction given the county by this statute shall not operate to limit the county's right to pursue any other legal remedies for the reimbursement of moneys advanced hereunder. The ordinance or resolution authorizing the issuance of said bonds shall have embodied therein the terms of the contract or contracts authorized by sections 5a and 5b of this act. The provisions of sections 5a. 5b and 5c of this act shall be construed as an additional and alternative method for the acquisition, construction and financing of the improvements or facilities contemplated by this act, and shall not affect the other provisions of this act relating thereto. Any improvements and facilities contemplated by this act may be acquired, constructed and financed in part under the provisions of sections 5a, 5b and 5c and in part under other sections of this act. This act shall not validate any drain orders or bonds issued prior to April 30.

HSTORY: Add, 1952, p. 84, Act 74, Eff. Sept. 18. Am. 1953, p. 247, Act 186, Imd. Eff. June 6; Am. 1954, p. 378, Act 161, Imd. Eff. Apr. 30; Am. 1957, p. 161, Act 138, Imd. Eff. May 28; Am. 1963, p. 3, Act 1, Imd. Eff. Feb. 26.

46.176 Board of review; hearing on charges; adjustment; meetings. [M.S.A. 5.2767(6)]

Sec. 6. The board of supervisors shall designate either a committee selected from its membership or the board of auditors, in counties having boards of auditors, to be constituted a board of review for the purpose of hearing and reviewing rates, charges and or assessments. At the request of any unit of government, person, firm or corporation, charged for services rendered by any county acting under the provisions hereof, and on sufficient cause being shown, or upon information presented to or obtained by said board of review of the respective county, the action of the county agency in fixing or adjusting charges and/or assessments shall be reviewed and finally determined by said board of review: Provided. That such charges and/or assessments shall in all cases be sufficient to pay operating expenses of the system and to meet sinking fund and interest requirements on bonds and to meet principal and interest payments on notes if any, and any other requirements under

which such bonds or notes may be issued. The board of review shall adjust and correct rates, charges and/or assessments in order that the same shall be just and equitable. The board of review shall meet at the room of the board of supervisors in the county building on the second Monday in May and September of each year, at 3:00 o'clock in the afternoon and continue in session during the day until 5:00 o'clock in the afternoon thereof and during the same hours of the 2 days following. Additional time for hearings may be granted by the board of review. Notice of hearings to be held by the board of review shall be prepared by such board and posted at 2 public places in each municipality where rates, charges and or assessments are charged or assessed in pursuance hereof, at least 7 days prior to the second Monday in May and September.

HISTORY: Am 1941, p. 613, Act 353, Eff. Jan. 10, 1942; Am 1953, p. 247, Act 186, Imd. Eff. June 9

46.177 Same; self-liquidating revenue bonds; issuance; pledge of full faith and credit, referendum; permission of municipal finance commission. [M.S.A. 5.2767(7)]

Sec. 7. For the purpose of obtaining money for locating, acquiring, purchasing, establishing, constructing, extending, improving or repairing any of the improvements, facilities or services authorized by this act, the county upon ordinance adopted by the board of supervisors may issue self-liquidating revenue bonds, and may issue refunding bonds for the payment or retirement of any such bonds previously issued by it for any such purposes. The bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 10 years from the date of issuance, and the last of which shall fall due not more than 40 years from the date of issuance, and no maturity after 10 years from date of issuance shall be less than 1/5 the amount of any subsequent maturity. Except as herein otherwise provided, the bonds shall be issued in accordance with the applicable provisions and procedures of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948. Except to the extent herein authorized such bonds shall not impose any liability upon the county but shall be secured only by the revenues of such improvements or facilities. As additional security for the payment of the principal of and interest on any revenue bonds issued pursuant to the provisions of this section, any issuing county, upon proper resolutionadopted by a 2/3 vote of all the members of its board of supervisors, irrevocably may pledge the full faith and credit of the county for the prompt payment of the principal of and interest on such bonds. If a petition for a referendum on the matter of said pledge shall be filed with the county clerk within 60 days after the vote of the board of supervisors thereon, signed by 10% of the electors in the county who voted for governor at the last presidential election, then said full faith and credit pledge shall cease to be effective until such time as the same has been approved by a majority of the electors of the county qualified under section 4, article 3 of the constitution, voting thereon at a regular or special election. The county shall be reimbursed for any moneys paid by reason of such pledge out of the first revenues available therefor not necessary to meet the requirements established in the ordinance authorizing the issuance of the revenue bonds. Such bonds shall be issued and sold in accordance with the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, including the requirement that the permission of the commission shall be given to the issuance of bonds.

Sale of bonds; trust agreement.

Any bonds issued hereunder for the purpose of locating, acquiring, purchasing, constructing, extending, improving or repairing sewer or sewage disposal improvements may be sold to the federal government or any agency thereof at private sale and without a public offering. Where such a contract is for the sale of less than all of the bonds authorized, then no such part shall be delivered until the balance of the bonds so authorized shall have been sold in the manner hereinbefore provided. Also, for the aforesaid purposes the board of supervisors may borrow money and issue notes therefor, secured and payable only from the revenues of the improvements, facilities or services authorized herein. The holders of the bonds or coupons or notes shall have the like remedies for the enforcement

of same as provided in the case of revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as amended. The county agency may in its discretion enter into a trust agreement with any bank or trust company duly qualified to administer trusts in the state for the purpose of securing the payment of said bonds and coupons. Such agreement shall provide for payment to the trustee designated in such agreement out of the gross revenues of the system, a sufficient amount each month to provide for the payment of the principal and interest upon the bonds as the same become due and payable. Nothing in this act contained shall authorize such county agency to create any liability of any kind upon any such county, except in the manner hereinbefore provided.

HISTORY Am 1941, p. 614, Act 353, Eff. Jan. 10, 1942; Am 1949, p. 254, Act 221, Eff. Sept. 21, Am, 1953, p. 247, Act 186, Ind. Eff. June 9; Am. 1961, p. 362, Act 213, Eff. Sept. 8; Am. 1963, p. 4, Act I, Ind. Eff. Feb. 26.

NOTE: Act 94, 1933, above referred to, is Compilers' §§ 141.101 141.136. Act 273, 1925, was repealed and superseded by Act 202, 1943, being Compilers' §§ 131.1 138.2.

46.178 Appropriations for expense; vote; revolving fund. [M.S.A. 5.2767(8)] Sec. 8. The board of supervisors of any county operating under the provisions of this act, may by a two-thirds vote of its members elect appropriate and there shall be paid from its general funds such sums as are determined by said board to be necessary for administrative expenses incurred by the county agency in the performance of its duties and powers authorized by this act and for purposes of obtaining maps, plans, designs, specifications and cost estimates of proposed improvements or facilities. The board of supervisors of any county operating under this act may by a two-thirds vote of its members elect make appropriations from the general fund of such county to be segregated as a revolving fund which may be used to finance and pay for such improvements or facilities as are authorized herein to be disbursed and expended by the county agency.

HISTORY Am. 1941, p. 614, Act 353, Eff. Jan. 10, 1942; Am. 1953, p. 248, Act 186, find Eff. June 9

46.179 Loans to governmental units; provision for payment. [M.S.A. 5.2767(9)] Sec. 9. In the event that the board of supervisors of any county having established any of the improvements or facilities authorized by this act determines that any city, village, township or township improvement district is in need of extensions, improvements or repairs to such improvements and facilities of and within such units of government, such board of supervisors by a two-thirds majority vote of its members elect is authorized to appropriate, advance and loan to and by agreement with such unit of government from the general funds of the county, such sums as are necessary to provide such extensions, improvements or repairs. The board of supervisors may, by resolution adopted by a two-thirds majority vote of its members elect, make such advance and loan on condition that the legislative body of the unit of government borrowing and receiving said sum shall enter into an agreement therefor and approve such advance and loan by a two-thirds vote of its members elect. Any sum to be borrowed for the benefit of a township improvement district shall be authorized by action of the township board in the township where said district is situated. No such loan shall be made by the board of supervisors without there first being irrevocably pledged to the payment thereof current or delinquent taxes evidenced by promissory notes paying interest at not to exceed 5 per cent per annum and maturing within a period of 10 years: Provided. The total sum advanced and loaned to any such unit of government for 1 or more of the improvements or facilities authorized herein shall not, in total amount, exceed 10 per cent of its current taxes and 80 per cent of all its delinquent taxes, and current and/or delinquent taxes pledged shall not exceed said amount. Such advances and loans are authorized irrespective of the amount of tax delinquency of the unit of government borrowing money for the purpose herein provided, and shall not require the approval of the state loan board, the public debt commission or any other state authority HISTORY: Am. 1941, p. 615, Act 353, Eff. Jan. 10, 1942; Am. 1953, p. 248, Act 186, Imd. Eff. June

46.180 Approval of loans and expenditures by board of auditors. [M.S.A. 5.2767(10)]

Sec. 10. In counties having a board of auditors, the advance or loan of any money to any city, village, township or township improvement district for purposes of constructing or acquiring any of the improvements or facilities authorized herein, shall be made conditioned upon the approval of the board of auditors. The board of auditors shall audit the financial records and accounts for the construction or acquisition of any improvements or facilities by the county authorized herein. All funds for the purchase of land, construction, acquisition, maintenance and operation of improvements or facilities authorized by the board of supervisors shall be disbursed by direction of the county agency and be approved by the board of auditors and paid by the county treasurer. In counties having no board of auditors, the board of supervisors shall perform the duties designated herein for the board of auditors.

HISTORY Am. 1941, p. 615, Act 353, Lift Jan. 10, 1942; Am. 1953, p. 249, Act 186, Imd. Eff. June 5

46.181 Enforcement of collection of charges and loans. [M.S.A. 5.2767(11)]

Sec. 11. The collection service charge authorized herein in terms of rates, charges or assessments to be fixed and collected by the county, and notes for money advanced and looned by the county may be enforced by such county in case of default in payment thereof as herein provided, and/or by action in mandamus, assumpsit or any other remedy prescribed by law.

46.182 Permit from legislative body of city or village not required. [M.S.A. 5.2767(12)]

Sec. 12. The construction or acquisition of any improvements or facilities in accordance with the provisions of this act, shall not be subject to the requirements and provisions of Act No. 261, Public Acts of Michigan, 1927.

HISTORY: Am. 1953, p. 249, Act 186, Imd. Eff. June 9. NOTE: Act 261, 1927, above referred to, is Compilers' \$\$ 123.261-123.265.

46.183 Construction of act. [M.S.A. 5 2767(13)]

Sec. 13. This act being necessary for and to secure the public health, safety and welfare of the counties, cities, villages, townships and township improvement districts of the state of Michigan, shall be liberally construed to effect the provisions hereof.

46.184 Purchase or condemnation of property by county agency. [M.S.A. 5.2767(14)]

Sec. 14. The county agency of any county, for purposes of exercising the authority herein granted to such county, may purchase, accept as a gift, or condemn private property determined by said county agency to be necessary therefor and for the public use. If by condemnation the provisions of Act No. 149 of the Public Acts of Michigan of the year 1911, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms 'public corporations,' 'state agencies' and 'private property' as used herein." or such other appropriate provisions therefor as exists or shall be made by law may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings.

HISTORY: Am. 1941, p. 615, Act 353, Eff. Jan. 10, 1942;—Am. 1953, p. 249, Act 186, Imd. Eff. June 9. NOTE: Act 149, 1911, above referred to, is Compilers' § 213.21 et seq.

46.185 Act cumulative. [M.S.A. 5.2767(15)]

Sec. 15. The authority hereby given shall be in addition to and not in derogation of any power existing in any of the counties, cities, villages and townships under any statutory or charter provisions which they may now have or may hereafter adopt.

46.186 County water and sewage disposal systems; action on behalf of partially incorporated city; binding effect upon township. [M.S.A. 5.2767(17)]

Sec. 16. Whenever all or any part of a township has been incorporated as a city and the incorporation of such city has not been completed by the adoption of a charter therefor, then the township board may act hereunder on behalf of both the city and the remainder of the township, either jointly or severally, and for the purposes of this act shall be deemed to be the governing body of such city as well as that of the township. Pending the adoption of such charter, any duty imposed by the provisions of this act upon an officer or governing body of the city, shall be performed by the corresponding officer or governing body of the

township, and all papers, documents and notices may be served upon the township clerk. In event of a referendum upon a contract entered into by the township board solely on behalf of such a city, then only the registered electors residing within the city incorporated territory shall be qualified to sign the petition therefor and to vote at the election. The township registration records shall be used unless there shall have been a previous registration of electors in the city. In the event that the city incorporated territory should revert to the township status by reason of the failure to adopt a charter for said city, then any action taken by the township board on behalf of such city shall be binding upon the township.

HISTORY: Add. 1956, p. 135, Act 49, Ind. Eff. Apr. 2.
ORIGINAL Sec. 16: Rep. 1945, p. 415, Act 267, Ind. Eff. May 25.

COUNTY AND REGIONAL PARKS

Act 261, 1965, p. 437; Imd. Eff. July 21,

AN ACT to authorize the creation and to prescribe the powers and duties of county and regional parks and recreation commissions; and to prescribe the powers and duties of county boards of supervisors with respect thereto.

The People of the State of Michigan enact:

46.351 County parks and recreation commission; members, appointment, terms, vacancies; rules and regulations; compensation. [M.S.A. 5.570(101)]

Sec. 1. The board of supervisors of any county, by resolution adopted by a 2.3 vote of all its members, may create a county parks and recreation commission which shall be under the general control of the board. The commission shall consist of 10 members including the chairman of the county road commission, the county drain commissioner, the chairman of the county planning commission and 7 members appointed by the board of supervisors, at least 1 and not more than 3 of whom shall be members of the board. Of the members first appointed, 2 shall be appointed for a term ending 1 year from the following January 1, 2 for a term ending 2 years from the following January 1, and 3 for a term ending 3 years from the following January 1. Thereafter, each appointed member shall be appointed for a term of 3 years and until his successor is appointed and qualified. Each term shall expire at noon on January 1. A vacancy shall be filled by the board of supervisors for the unexpired term. The commission shall be deemed an agency of the county. The board of supervisors may make such rules and regulations in respect to the commission as it deems advisable. The members of the commission shall not be full-time officers, and the board of supervisors shall fix the compensation of the members.

46.352 Regional parks and recreation commission; members, appointment, terms, vacancies; rules and regulations; compensation. [M.S.A. 5.570(102)]

Sec. 2. The boards of supervisors of 2 or more contiguous counties, by resolution adopted by a 2/3 vote of the members of each board, may create a regional parks and recreation commission. The commission shall consist of 4 members from each county including the chairman of the county road commission, and 3 members appointed by the board of supervisors, at least 1 and not more than 2 of whom shall be members of the board. Of the members first appointed, 1 each shall be appointed for terms ending 1, 2 and 3 years from the following January 1. Thereafter, each appointed member shall be appointed for a term of 3 years and until his successor is appointed and qualified. A vacancy shall be filled by the board of supervisors for the unexpired term. Members of the commission shall not be full-time officers, and the commission shall fix the compensation of its members.

46.353 Election of officers; quorum; bylaws and contracts. [M.S.A. 5.570(103)]

Sec. 3. Each January a county commission and a regional commission shall elect from its membership a president, a secretary and such other officers as it deems necessary, who shall hold office for the calendar year in which elected and until their successors are elected and qualified. A majority of the members of the commission shall constitute a quorum for the transaction of business. The board of supervisors may authorize a county commission to adopt bylaws and enter into contracts. A regional commission may adopt bylaws and enter into contracts.

46.354 Annual budget of county commission; appropriations; limitation of expenditures. [M.S.A. 5.570(104)]

Sec. 4. The board of supervisors in its annual budget may provide for the expenses of a county commission, which shall be limited in its expenditures to amounts so appropriated unless a further appropriation is made by the board of supervisors.

46.355 Regional commission funds; appropriation or tax levy; budget; apportionment of expenses; disbursement. [M.S.A. 5.570(105)]

Sec. 5. The boards of supervisors of each county included in a region shall provide funds for a regional commission's operations by an appropriation from the general fund of the county, or by a tax levy for this purpose authorized by a vote of the qualified electors in each county. The commission annually shall present a budget to the boards of superviors of the counties in the region. Upon approval of such budget by a majority of each of the boards of supervisors, the proposed budget shall be effective in all counties in the region. That part of the approved budget which is not financed by receipts from fees, gitts and other private sources shall be apportioned among the several counties on the basis of tax valuation. All appropriations shall be paid to the commission and disbursed under its direction.

46.356 County or regional commission study of facilities; coordinated plan. [M.S.A. 5.570(106)]

Sec. 6. A county or regional commission may study and ascertain the county or regions park, preserve, parkway and recreation and other conservation facilities, the need for such facilities and the extent to which such needs are being currently met, and prepare and adopt a coordinated plan of areas and facilities to meet such needs.

46.357 Land acquisitions and programs; approval. [M.S.A. 5.570(107)]

Sec. 7. A county or regional commission shall file with and obtain the approval of the state conservation department of all proposals for acquisition of land and of general development plans and programs for the improvement and maintenance thereof before any such program shall be executed.

46.358 Land acquisition; considerations. [M.S.A. 5.570(108)]

Sec. 8. A county commission may acquire in the name of the county and a regional commission may acquire in its name by gift, purchase, lease, agreement, or otherwise, in fee or with conditions, suitable real property, within the county or region, or contiguous with or adjacent thereto, for public parks, preserves, parkways, playgrounds, recreation centers, wildlife areas, lands reserved for flood conditions for impounding runoff water, and other conservation purposes. In acquiring or accepting land, due consideration shall be given to its scenic, historic, archaeologic, recreational or other special features.

46.362 Custody, control and management of property. [M.S.A. 5.570(112)]

Sec. 12. A county or regional commission shall have the custody, control and management of all real and personal property acquired by the county or a regional commission for public parks, preserves, parkways, playgrounds, recreation centers, wildlife areas, lands reserved for flood conditions for impounding runoff water, and other county conservation or recreation purposes.

GENERAL VILLAGE ACT

Act 3, 1895, p. 6; Imd. Eff. Feb. 19.

An act to provide for the incorporation of villages; to define their powers and duties; to define the powers and duties of the municipal finance commission with regard thereto; to define the application of this act and provide for its amendment by villages subject thereto; and to validate prior amendments and certain prior actions taken and bonds issued by villages.

The People of the State of Michigan enact:

CHAPTER VII-POWERS OF COUNCIL.

67.12 Public improvement powers of council; condemnation; expenses, assessment. [M.S.A. 5.1296]

Sec. 12. The council shall have power to lay out, establish, open, make, widen, extend, straighten, alter, close, vacate, or abolish any highway, street, lane, alley, sidewalk, sewer, drain, water course, bridge, or culvert in the village whenever they shall deem the same a public improvement, or necessary for the public convenience; and if in so doing it shall be necessary to take or use private property the same may be taken in the manner provided in this act. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, in the manner in this act provided for levying and collecting special assessments, or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general highway fund.

HISTORY: C L 1897, 2780;—C L 1915, 2651;—C L 1929, 1560.

CONDEMNATION: See Compilers' \$\$ 73.1 to 73.36. For other provisions relating to condemnation of private property for public purposes, see Compilers' \$\$ 213.1 to 213.261.

SPECIAL ASSESSMENTS: See Compilers' \$\$ 68.1 to 68.22.

SEWERS, DRAINS AND WATER-COURSES.

67.24 Sewers, drains, water-courses, construction; condemnation. [M.S.A. 5.1308]

Sec. 24. The council of any village may establish, construct and maintain sewers, drains and water-courses whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the village; and private property, or the use thereof, may be taken therefor in the manner provided by this act for taking private property for public use. But in all cases where the council shall deem it practicable, such sewer, drain and water-courses shall be con-

structed in the public streets and grounds.

HISTORY: C L 1897, 2792;—C L 1915, 2663;—C L 1929, 1572.

SANITATION: Supervision and regulation by department of health, see Compilers' \$ 325.201 et seq. DRAIN CODE OF 1956 · \$ 2801 et seq. CONDEMNATION: See Compilers' \$ 73.1 to 73.36.

SEWERS: Construction in private property, see Compilers' \$ 123.181.

GARBAGE AND SEWAGE: Disposal of, see Compilers' \$ 123.241 et seq. CONVENIENCE STATIONS: See Compilers' \$ 123.171 and 123.172.

67.25 Same; methods of raising money; contractor, payment. [M.S.A. 5.1309]

Sec. 25. The expense of constructing sewers, drains and water courses may be paid by general tax upon all the taxable property in the village; or such expenses may be defrayed by special assessment upon the lands and premises benefited by the drainage, in proportion to the benefits resulting to each lot or parcel of land respectively; or such part of the expense as the council shall determine may be defrayed by special assessment, and the remainder may be paid by general tax. And if the council shall declare that the expense of any sewer, drain or water course, or any part of such expense, shall

be paid by a special assessment upon the lands and premises benefited, then such special assessment may be levied in a single assessment, or, in the discretion of the council, the special assessment rolls to defray the cost and expense of such improvement may be made in 5 parts or instalments, each part or instalment to contain a list of the lots or parcels of land constituting the special assessment district with the names of the owners, if known, or occupants of each lot or parcel of land; and 1/5 of the cost or expense of such improvement shall be assessed upon each 1 of said 5 parts or instalments, I of which shall become due and be collected each year, at such time as the council shall determine, with interest at a rate not exceeding 6 per cent per annum to be fixed by the council; but the whole assessment after confirmation may be paid in full by any person assessed for such improvement, without interest at the time when the first instalment is due. The village council shall have power to issue bonds of the village bearing not to exceed 6 per cent interest to an amount not exceeding the assessment, and may, in its discretion, pledge the full faith and credit of the village for the payment of such bonds. Bonds for 2 or more improvements may be consolidated in a single issue. All payments made on the assessments shall be paid into and constitute a sinking fund for the payment of said bonds at maturity. Owners and occupants paying by instalments shall pay the full amount of the interest on each instalment down to the maturity thereof, but may pay the principal and such interest before maturity. Contractors for the construction of sewers may be required to take their pay in such special sewer bonds; and if the council so declares, the notice of such declaration shall be included in the notice calling for proposals to construct such sewers. The council shall, however, first advertise said bonds for sale for 4 consecutive weeks in some newspaper of general circulation within or near said village, and in such other manner as they may determine, and all bids received for such bonds shall be opened in public and the sale of said bonds awarded to the highest responsible bidder; or after advertising for sale said bonds as above set forth, the council may reject all bids and require the contractor or contractors to accept any or all of his pay in such bonds at not less than their par value; but no such bonds shall, in any event be sold, or otherwise disposed of, at less than their par value. The village council may issue similar bonds, running 1, 2, 3, 4 and 5 years respectively, to defray that portion of the cost or expense of any sewer, drain or water course, chargeable to lands belonging to the village, school buildings or other public buildings or grounds, including such portion of said cost or expense as the council may have decided to pay from the general fund.

HISTORY: CL 1897, 2793;—Am. 1905, p. 173, Act 125, Imd. Eff. May 17;—CL 1915, 2664;—Am. 1921, p. 524, Act 278, Imd. Eff. May 18;—Am. 1929, p. 179, Act 71, Eff. Aug. 28;—CL 1929, 1573.

SPECIAL ASSESSMENTS: See Compilers' \$\$ 68.1 to 68.22.

MUNICIPAL OBLIGATIONS: See Compilers' \$ 123.1 et seq. and Compilers' \$ 141.1 et seq.

TAX LAW: See Compilers' § 211.7 et seq.

67.26 Same; special assessment; map of sewer district, contents, filing with cost estimate; hearing, notice. [M.S.A. 5.1310]

Sec. 26. Before proceeding to the construction of any sewer, drain or water-course, the expense or any part of the expense of which is to be defrayed by special assessment, the council shall cause a map to be made of those lands and premises which in their opinion will be benefited by the drainage, and which they intend to assess for the cost of the sewer or drain. Said lands shall constitute a sewer district; and said map shall show the boundaries and divisions of all the lots and premises in the district, and the proposed route and location of the sewer through the same; also its depth, grade and dimensions. Said map, with an estimate of the cost of the proposed work, shall be deposited with the clerk, and notice shall be given by publication in a newspaper of the village for 2 weeks or by posting copies of such notice for the same length of time, in 3 public places in the village, of the intention to construct the sewer or drain, and where the map and estimates aforesaid can be found, and appointing a time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work.

HISTORY: CL 1897, 2794;—CL 1915, 2665;—CL 1929, 1574.

67.27 Same; declaration by resolution, contents; map, filing. [M.S.A. 5.1311]

Sec. 27. When the council shall determine to construct any such sewer, drain, or water-course, they shall so declare by resolution, designating the lands or district to be assessed and describing, by reference to the map and diagram mentioned in the preceding section, the route, location, depth, grade, and dimensions of the work, and shall state in the same resolution what part of the expense, if any, is to be paid by general tax, and what part by special assessment, according to the benefits; such map and diagram as adopted [adopted] shall be filed with the clerk.

HISTORY: CL 1807, 2795; -CL 1915, 2666; -CL 1929, 1575.

67.28 Special assessment. [M.S.A. 5.1312]

Sec. 28. Special assessments for the purposes aforesaid shall be made in the manner provided in chapter 8 of this act.

HISTORY: C L 1897, 2796;—C L 1915, 2667;—C L 1929, 1576, NOTE: Chapter 8, above referred to, is Compilers' \$\$ 68.1 to 68.22.

67.29 Private drains; construction, regulation; failure, work at private expense. [M.S.A. 5.1313]

Sec. 29. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.

HISTORY: CL 1897, 2797; -CL 1915, 2668; -CL 1929, 1577.

67.30 Same; connection with public sewers. [M.S.A. 5.1314]

Sec. 30. The owners and occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the council shall prescribe.

HISTORY: CL 1897, 2798; -- CL 1915, 2669; -- CL 1929, 1578.

67.31 Same; connection tax. [M.S.A. 5.1315]

Sec. 31. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding 2 dollars per year, as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon.

HISTORY: CL 1897, 2799;—CL 1915, 2670;—CL 1929, 1579. SPECIAL ASSESSMENT: See Compilers' §§ 68.1 to 68.22.

67.32 Ditches, water-courses; special assessment. [M.S.A. 5.1316]

Sec. 32. Such part of the expense of providing ditches and improving water-courses, as the council shall determine, may be defrayed by special assessment upon the lands and premises benefited thereby in proportion to such benefits.

HISTORY: CL 1897, 2800;—CL 1915, 2671;—CL 1929, 1580. SPECIAL ASSESSMENT: See Compilers' §§ 68.1 to 68.22.

67.33 Same; public sewers; repair expense. [M.S.A. 5.1317]

Sec. 33. The expenses of repairing public sewers, ditches, and water-courses may be paid by general tax. The expenses of reconstructing public sewers may be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.

HISTORY: CL 1897, 2801;—CL 1915, 2672;—CL 1929, 1581. CONSTRUCTION EXPENSE: See Compilers' \$ 67.25.

67.34 Public sewer and drain ordinances. [M.S.A. 5.1318]

Sec. 34. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to the drainage of the village.

HISTORY: C.L. 1807, 2802, C.L. 1915, 2673; C.L. 1929, 1582.

HARBORS, WHARVES, AND HARBOR MASTERS.

67.35 Public wharves, piers, levees; construction, regulation, leasing of privileges. [M.S.A. 5.1319]

Sec. 35. The council of any village located upon or adjacent to any of the navigable waters of the state shall have the power to establish, construct, maintain, and control public wharves, docks, piers, landing places, and levees, upon any lands or property belonging to or under the control of the village, including property at the foot or end of public streets; and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than 10 years, and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

HISTORY: CL 1897, 2803;-CL 1915, 2674;-CL 1929, 1583.

67.36 Same; conformity with grade; line limit. [M.S.A. 5.1320]

Sec. 36. The council shall have authority also to require and cause all docks, wharves and landings, whether upon public grounds or upon the property of private individuals, to be constructed and maintained in conformity with such grade as may be established therefor by the council, and to prescribe the line beyond which any such wharf, dock, or landing shall not be constructed or maintained.

HISTORY: CL 1897, 2804;—CL 1915, 2675;—CL 1929, 1584

67.37 Same; rates and charges. [M.S.A. 5.1321]

Sec. 37. The council shall have authority to prohibit the encumbering of the public wharves and landings, and to regulate the use of all wharves docks and landing places within the village; to regulate the use and location of wharf-boats; and to regulate and prescribe the rates and charges for landing, wharfage, and dockage at all public wharves, docks and landings, and to collect wharfage and dockage from boats, water-craft, and floats landing at or using any public landing place, wharf, or dock within the village.

HISTORY: CL 1897, 2805; - CL 1915, 2676; - CL 1929, 1585.

67.38 Preservation of purity of water; regulation of use of navigable waters. [M.S.A. 5.1322]

Sec. 38. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the village, to control and regulate the anchorage, moorage, and management of all boats, watercraft, and floats within the jurisdiction of the village; and to regulate and prescribe by such ordinances, or through a harbor master or other officer, such location of any boat, craft, vessel, or float, and such changes of station in, and use of the harber [harbor] as may be required to promote order therein, and the safety and convenience of all such boats, craft, vessels and floats, and to regulate the opening and passage of bridges; and generally to enact and enforce such ordinances and regulations not inconsistent with the laws of the United States, or this state, as in the opinion of the council shall be most conducive to the orderly, safe and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the village.

HISTORY: CL 1897, 2806; -CL 1915, 2677; -CL 1929, 1586.

67.39 Harbor master; appointment, duties, compensation. [M.S.A. 5.1323]

Sec. 39. The council may also appoint a harbor master whose duty it shall be to enforce all such ordinances and regulations as the council may lawfully enact and prescribe in respect to, and over the navigable waters, harbors, wharves, docks, landings

and basins within the village, and in respect to the navigation, trade and commerce of the village, and prescribe the powers and duties of such harbor master and fix his compensation.

HISTORY CL 1897, 2807; -- CL 1915, 2678, -- CL 1929, 1587.

FERRIES

67.40 License; restrictions; penalties. [M.S.A. 5.1324]

Sec. 40. The council of any village may regulate and license ferries from such village, or any place of landing therein, to the opposite shore, or from one part of the village to another; and may require the payment of such reasonable sum for such license as the council shall deem proper; and may impose such reasonable terms and restrictions, in relation to the keeping and management of ferries, and the time, manner, and rates of carriage and transportation of persons and property as may be proper, and may provide for the revocation of any such license, and for the punishment, by proper fines and penalties, for violations of any ordinance prohibiting unlicensed ferries, or regulating those established and licensed.

HISTORY: C L 1897, 2808;—C L 1915, 2679;—C L 1929, 1588

CHAPTER X-FIRES AND FIRE DEPARTMENT.

70.12 Water craft on navigable streams, regulation. [M.S.A. 5.1408]

Sec. 12. The council of any village located upon any of the navigable waters of the state may by ordinance prescribe such regulations to be observed by owners, masters and employes of steamboats and water craft as may be necessary for the prevention of fires in the harbor and to prevent the communication of fire from such boats and craft, and may prescribe in such ordinances the manner of collecting any penalties imposed thereby.

HISTORY: C L 1897, 2889;—C L 1915, 2763;—C L 1929, 1672. STEAM VESSELS: Protection against fire from, see Compilers' § 692.203.

CHAPTER XI-WATER WORKS

71.1 Water works, filtration plant; establishment, maintenance. [M.S.A. 5.1409]

Sec. 1. Any village having a resident population of 200 or over shall have authority to purchase or construct and maintain water works, for the introduction of water into the village and supplying the village and inhabitants thereof with pure and wholesome water for the extinguishment of fires, the ordinary and extraordinary uses of the inhabitants thereof and for such other purposes as the council may prescribe; and may also construct and maintain a filtration plant for the purification of the water supply of the village.

HISTORY: C.L. 1897, 2890; —C.L. 1915, 2764; —Am. 1917, p. 72, Act. 43, Eff. Aug. 10; —Am. 1917, p. 169, 194, Imd. Eff. April 17; —C.L. 1929, 1673; —Am. 1937, p. 868, Act. 349, Imd. Eff. Aug. 5.

SANITATION: Supervision and regulation by department of health, see Compilers' § 325,201 et seq. WATER SUPPLY: See Act. 5 of 1879, being Compilers' § 123,101 et seq.

Power to furnish outside territorial limits, see Act. 34 of 1917, being Compilers' § 123,141 et seq.

71.2 Same; authorized acquisitions, construction, maintenance. [M.S.A. 5.1410]

Sec. 2. The village may acquire, purchase, erect and maintain such reservoirs, canals, acqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes and other apparatus, appurtenances and machinery, and may acquire, purchase, appropriate and own such grounds, real estate, rights and privileges as may be necessary and proper for the securing, constructing, rebuilding, repairing, extending and maintenance of such water works or filtration plants.

HISTORY: C.L. 1897, 2891;—Am. 1915, p. 270, Act 158, Imd. Eff. May 7:—C.L. 1915, 2765;—Am. 1917, p. 170, Act 94, Imd. Eff. April 17:—C.L. 1929, 1674.

71.3 Council's borrowing power, limit, payment; bonds, issuance, terms. [M.S.A. 5.1411]

Sec. 3. It shall be lawful for any village, subject to the provisions of this act, to borrow any sum of money, that will not make the total indebtedness of such village greater than 10 per cent of the assessed value of the property in said village, as shown by

the last preceding tax roll, to be used exclusively for the purpose of purchasing, constructing, repairing, rebuilding, extending and maintaining water works, or filtration plants as provided in the 2 preceding sections, and for the payment of any indebtedness incurred by the village in purchasing, constructing, repairing, rebuilding, extending and maintaining water works or filtration plants. The council shall have the power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter and to issue bonds of the village therefor. All bonds issued under the provisions of this act shall be made to mature serially in such installments that the first payment shall be due not more than 3 years after the date of issue and that the total amount of principal and interest payable in any year thereafter shall not exceed the amount payable in the preceding year. The rate of interest on such bonds shall not exceed 6 per cent per annum. Such bonds shall not be sold for less than their par value: Provided, That the total amount expended for the purchasing, constructing, repairing, rebuilding extending and maintaining such water works or filtration plants, or for the payment of any indebtedness incurred by the village in purchasing, constructing, repairing, rebuilding, extending and maintaining such water works or filtration plants shall not exceed the amount of the estimate of expense provided for in section 4 of this chapter.

HISTORY: C.L. 1897, 2892;—Am. 1915, p. 270, Act 158, Imd. Eff. May 7;—C.L. 1915, 2766;—Am. 1917, p. 170, Act 94, Imd. Eff. April 17;—Am. 1925, p. 144, Act 105, Imd. Eff. April 30;—C.L. 1929, 1675, MUNICIPAL OBLIGATIONS: Regulation of, see Act 202 of 1943, being Compilers' § 131.1 et seq.

71.4 Same; estimate; referendum, exception; repair limit. [M.S.A. 5.1412]

Sec. 4. Before any money shall be borrowed, appropriated, raised or expended for the purchase, construction, repairing, rebuilding or extending of water works or filtration plants in any village, or for the payment of any indebtedness incurred by the village, in purchasing, constructing, repairing, rebuilding, extending and maintaining water works or filtration plants, the council shall cause to be made an estimate of the expense thereof, and the question of raising the amount required for such purpose or purposes and of the amount required to pay any indebtedness incurred by the village for the purchasing, constructing, repairing, rebuilding, extending or maintaining of water works or filtration plants in the village, shall be submitted to the electors of the village at its annual election or at a special election called for that purpose by the council as provided in this act, and shall be determined as 2/3 of the electors voting at such election shall decide: Provided, however. After water works or filtration plants have been purchased or constructed in a village by virtue of any provision of this act, the council may then raise and expend in making repairs or alterations or in extending such works, such sum as it may see fit without submitting the question to the electors of the village: Provided, That the sum to be raised for such purpose shall be included in and shall not increase the total amount which by the provision of section 1, chapter 9 of this act, the council is authorized to raise.

HISTORY: Am. 1897, p. 74, Act 63, Eff. Aug. 30:—C.L. 1897, 2893;—Am. 1915, p. 271, Act 158, 1md. Eff. 7:—C.L. 1915, 2767;—Am. 1917, p. 170, Act 94, 1md. Eff. April 17;—C.L. 1929, 1676.

NOTE: Sec. 1, Ch. 9, above referred to, is Compilers' § 69.1.

MUNICIPAL OBLIGATIONS: Regulation of, see Act 202 of 1943, being Compilers § 131.1 et seq

71.5 Private connections, manner, permit; repairs at owner's expense. [M.S.A. 5.1413]

Sec. 5. The connecting or supplying pipes, leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the council. All such connecting or supply pipes shall be constructed and connected in the manner prescribed by ordinance.

HISTORY: CL 1897, 2894; -- CL 1915, 2768; -- CL 1929, 1677

71.6 Water rates; ordinance, terms. [M.S.A. 5.1414]

Sec. 6. The council shall establish a scale of rates to be charged and paid for supply of water, to be called water rates, and which rates shall be appropriate to different classes of buildings in the village, with reference to their dimension, value, exposure to fires. ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns, and all other buildings establishments and trades, yards, number of families or occupants or consumption of water, as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rates; and the council may prescribe by ordinance, when and to whom such water rates shall be paid, and what steps shall be taken to enforce payment thereof, and may provide, in case of non-payment, that the supply of water may be shut off or stopped as to any person or persons neglecting or refusing to make such payment.

HISTORY: C.L. 1807, 2895; - C.L. 1915, 2769; - C.L. 1929, 1678.

71.7 Water works; ordinances. [M.S.A. 5.1415]

Sec. 7. The council may enact such ordinances, and adopt such resolutions, as may be necessary for the care, protection, preservation, and control of the water works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the construction, management and control of such water works.

HISTORY: CL 1897, 2896; -CL 1915, 2770; -CL 1929, 1679.

71.8 Same; location outside corporate limits, control by council. [M.S.A. 5.1416]

Sec. 8. When the council shall deem it for the public interest, such water works may be purchased or may be constructed and maintained beyond the corporate limits of the village; and in such case the council shall have authority to enforce beyond the corporate limits of the village, within the county or counties in which such village is situated, and over the buildings, machinery, and other property belonging to and connected with such water works, in the same manner and to the same extent as if they, or it, were within the village, all such ordinances and police regulations as may be necessary for the care, protection, preservation, management, and control thereof.

HISTORY: CL 1897, 2897;—CL 1915, 2771;—CL 1929, 1680.

71.9 Same; use of street or highway. [M.S.A. 5.1417]

Sec. 9. For the purpose of operating or constructing and maintaining such water works, the village shall have the right to use the ground or soil under any street, highway, or road within the county or counties within which such village is situated for the purpose of introducing water into and through any and all portions of the village, on condition that it shall cause the surface of such street, highway, or road to be relaid and restored to its usual state without unnecessary delay and any damage done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes upon like conditions

HISTORY: CL 1897, 2898;—CL 1915, 2772;—CL 1929, 1681.

71.10 Same; condemnation. [M.S.A. 5.1418]

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property for the construction, and maintenance or for the due operation of water works, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the village in the manner and with like effect as provided in this act for the taking of private property for public use.

HISTORY: C.L. 1897, 2899;—C.L. 1915, 2773;—C.L. 1929, 1682. CONDEMNATION FOR WATER WORKS: See Compilers' § § 73.1 et seq. and 123.107 et seq.

71.11 Water supply, contract; user of streets, wharves, public grounds. $[M.S.A.\ 5.1419]$

Sec. 11. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such village and the inhabitants thereof, with water, upon such terms and conditions as may be agreed; and may grant to such person, persons, or corporation the right to the use of the streets, alleys, wharves, and public grounds of such village as shall be necessary to enable such person, persons, or corporation to construct and operate proper works for the supply of water for the use of such village, and the inhabitants thereof, upon such terms and conditions as shall be specified in such contracts.

HISTORY: CL 1897, 2900;-CL 1915, 2774;-CL 1929, 1683.

FOURTH CLASS CITIES

Act 215, 1895, p. 389; Eff. Aug. 30.

An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission with regard thereto; to define the application of this act and provide for its amendment by cities subject thereto, and to validate such prior amendments and certain prior actions taken and bonds issued by such cities.

Title Am. 1931, p. 389, Act 223, Eff. Sept. 18; Am. 1954, p. 136, Act 110, Eff. Aug. 13; Am. 1962, p. 163, Act 161, Imd. Eff. May 10.

The People of the State of Michigan enact:

CHAPTER XIV-PUBLIC HEALTH.

94.3 Unwholesome conditions, remedying; dangerous buildings, removal. [M.S.A. 5.1759]

Sec. 3. If any cellar, vault, lot, sewer, drain, place, or premises within the city shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce unwholesome or offensive exhalations, the council may cause the same to be drained, filled up, cleaned, amended or purified; or may require the owner or occupant, or person in charge of such lot, premises or place, to perform such duty and may require the owner or occupant of any building, fence or structure, which may be dangerous or liable to fall and injure persons or property, to pull down or remove the same; or the council may cause the same to be done by the proper officers of the city.

HISTORY: CL 1897, 3126;—CL 1915, 3040;—CL 1929, 1964. GENERAL HIGHWAY LAW: See Compilers' \$ 221.1 et seq.

CHAPTER XVII-HARBORS, WHARVES AND HARBOR-MASTERS.

97.1 Council; public wharves. [M.S.A. 5.1776]

Sec. 1. The council of any city located upon or adjacent to any of the navigable waters of the state, shall have the power to establish, construct, maintain and control public wharves, docks, piers, landing places and levees, basins and canals, upon any lands or property belonging to or under the control of the city; and for that purpose the city shall have the use or control of the shore or bank of any lake, river or other waters within the city, not the property of individuals, to the extent to which the state can grant the same, and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than 5 years and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

HISTORY: CL 1897, 3143:-CL 1915, 3057:-CL 1929, 1981.

97.2 Same; construction of wharves. [M.S.A. 5.1777]

Sec. 2. The council shall have authority also to require and cause all docks, wharves and landings, whether upon public grounds or upon the property of private individuals, to be constructed of such material and in such manner and maintained in conformity with such grade as may be established therefor by the council and prescribe the line beyond which any such wharf, dock, or landing shall not be constructed or maintained.

HISTORY: CL 1897, 3144;-CL 1915, 3058;-CL 1929, 1982.

97.3 Same; regulation of user, rates. [M.S.A. 5.1778]

Sec. 3. The council shall have authority to prohibit the encumbering of the public wharves and landings, and to regulate the use of all wharves, docks and landing places within the city; regulate the use and location of wharf boats; and to regulate and prescribe the rates and charges for landing, wharfage and dockage at all public and private wharves, docks and landings and to collect wharfage and dockage from boats, water craft, and floats landing at or using any public landing place, wharf, or dock within the city.

HISTORY: CL 1897, 3145;—CL 1915, 3059;—CL 1929, 1983.

97.4 Same; preservation of water purity; use of harbor, regulation. [M.S.A. 5.1779]

Sec. 4. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the city and
within ½ of a mile from the corporate boundaries thereof; to prohibit and punish the
casting or depositing therein of any filth, logs, floating matter or any injurious thing; to
control and regulate the anchorage, moorage and management of all boats, water-craft and
float within the jurisdiction of the city; to prescribe the mode and speed of entering and
leaving the harbor and of coming to and departing from the docks, wharves and landings,
by boats, water-craft and floats, and to regulate and prescribe, by such ordinances or
through a harbor-master or other officer, such location for any boat, craft, vessel or float
and such changes of station in and use of the harbor as may be required to promote order
therein and the safety and convenience of all such boats, craft, vessels and floats; and generally to enact and enforce such ordinances and regulations not inconsistent with the laws
of the United States and of this state, as in the opinion of the council shall be most conducive to the orderly, safe and convenient use and occupancy of the harbor, navigable
waters, wharves, docks, piers and landing places within the city.

HISTORY: CL 1897, 3146;—CL 1915, 3060;—CL 1929, 1984.

97.5 Same; tugs, bridges, regulation. [M.S.A. 5.1780]

Sec. 5. The council may also license and regulate the use of tugs and prescribe the rates and charges of towage within the harbor or other waters of the city, and regulate the opening and passage of bridges.

HISTORY: CL 1897, 3147; -CL 1915, 3061; -CL 1929, 1985.

97.6 Same; harbor officers, appointment, powers, duties. [M.S.A. 5.1781]

Sec. 6. The council may also appoint a harbor-master, wharf-master, port wardens, and such other officers as may be necessary for the enforcement of all such ordinances and regulations as the council may lawfully enact and prescribe, in respect to and over the navigable waters, harbors, wharves, docks, landings and basins, within the city and in respect to the navigation, trade and commerce of the city and prescribe the powers and duties of such harbor-master and other officers and to fix the compensation to be paid them.

HISTORY: CL 1897, 3148:—CL 1915, 3062:—CL 1929, 1986.

CHAPTER XVIII-FERRIES.

98.1 Regulation by council; penalties. [M.S.A. 5.1782]

Sec. 1. The council of any city may regulate and license ferries from such city or any place or landing therein to the opposite shore, or from 1 part of the city to another; and may require the payment of such reasonable sum for such license as to the council shall seem proper; and may impose such reasonable terms and restrictions in relation to the keeping and management of such ferries and the time, manner and rates of carriage and transportation of persons and property as may be proper, and provide for the revocation of any such licenses and for the punishment, by proper fines and penalties, of the violation of any ordinance prohibiting unlicensed ferries and regulating those established and licensed.

HISTORY: CL 1897, 3149;—CL 1915, 3063;—CL 1929, 1987.

CHAPTER XXI-SEWERS, DRAINS AND WATER-COURSES.

101.1 Construction; condemnation; location. [M.S.A. 5.1788]

Sec. 1. The council of any city may establish, construct and maintain sewers and drains whenever and wherever necessary and of such dimensions and materials and under such regulations as they may deem proper for the drainage of the city; and private property or the use thereof, may be taken therefor in the manner prescribed in this act for taking such property for public use. But in all cases where the council shall deem it practicable such sewers and drains shall be constructed in the public streets and grounds.

HISTORY: C.L. 1897, 3155;—C.L. 1915, 3069;—C.L. 1929, 1993.

SANITATION: Supervision and regulation by department of health, see Compilers' § 325.201 et seq.

DRAIN CODE OF 1956. § 286.1 et seq.

SEWERS: Construction in private property, see Compilers' § 123.181.

GARBAGE AND SEWAGE: Disposal of, see Compilers' § 123.241 et seq.

101.2 Board of public works, powers, duties. [M.S.A. 5.1789]

Sec. 2. The board of public works shall have the management, supervision and control of the sewers, sewerage system and drainage of the city and the charge of their construction, subject to the general direction and approval of the council as herein provided, and the council may by ordinance prescribe the powers and duties of said board, relating to all matters connected with the sewers, sewerage system and drainage of the city.

HISTORY: CL 1897, 3156; -- CL 1915, 3070; -- CL 1929, 1994.

101.3 Same; drainage construction plan. [M.S.A. 5.1790]

Sec. 3. Whenever it may become necessary in the opinion of the council to provide sewerage and drainage for the city, or for any part thereof it shall be their duty to instruct and direct the board of public works to devise, or cause a plan of such sewerage or drainage to be devised, for the whole city, or for such part thereof as they shall determine.

HISTORY: CL 1897, 3157;—CL 1915, 3071;—CL 1929, 1995.

101.4 Same; sewer districts; plats submitted to council; adoption, filing. [M.S.A. 5.1791]

Sec. 4. Such plan shall, in the discretion of the board, be formed with a view to the division of the city into main sewer districts, each to include 1 or more main or principle sewers, with the necessary branches and connections; the districts to be numbered and so arranged as to be as nearly independent of each other as may be. Plats or diagrams of such plan, when completed, shall be submitted to the council, and when adopted by the council shall be filed in the office of the clerk of the board.

HISTORY: CL 1897, 3158;-CL 1915, 3072;-CL 1929, 1996.

101.5 Subdivision of main sewer districts; special sewer districts. [M.S.A. 5.1792]

Sec. 5. Main sewer districts may be subdivided into special sewer districts in such manner that each special district shall include 1 or more lateral or branch sewers connecting with a main sewer and such lands as in the opinion of the board subject to the approval of the council will be benefited by the construction thereof. When deemed necessary, special sewer districts, to include 1 or more local or branch sewers, and such lands as in the opinion of the board, subject to the approval of the council, will be benefited by the construction thereof, may be formed of territory not included in any main sewer district.

HISTORY: CL 1897, 3159; -CL 1915, 3073; -CL 1929, 1997.

101.6 Main trunk sewers; adoption, recording. [M.S.A. 5.1793]

Sec. 6. The council may, however, provide for main or trunk sewers without reference to sewer districts and may direct the board of public works to prepare diagrams, or plats thereof, which, when approved by the council, shall be recorded in the office of the clerk, in the book of sewer records.

HISTORY: CL 1897, 3160;—CL 1915, 3074;—CL 1929, 1998.

101.7 Same; costs, expenses, payment; special assessment. [M.S.A. 5.1794]

Sec. 7. The cost and expenses of establishing and making any main or trunk sewers constructed without reference to sewer districts, shall be paid from the general sewer fund, excepting such portion or portions thereof as the council shall deem to be of benefit to adjacent private property, which property shall be described and the benefits thereto determined, assessed and taxed in the same manner as hereinafter provided. Such part as the council shall determine, being not less than 1/6 of the cost and expense of any main district sewer, or of the cost of any lateral, branch or local sewer constructed within a special sewer district, shall be paid from the general sewer fund, and the remainder of such costs and expenses shall be defrayed by special assessment upon all the taxable lands and premises included within the main or special sewer district, as the case may be, in proportion to the estimated benefits accruing to each parcel respectively from the construction of the sewer. Assessments according to benefits as aforesaid shall be made without reference to any improvements or buildings upon the lands.

HISTORY: CL 1897, 3161;-CL 1915, 3075;-CL 1929, 1999.

101.8 Diagram of sewer district, contents; publication of notice, examination. [M.S.A. 5.1795]

Sec. 8. Before proceeding to the construction of any district sewer, the council shall cause the board of public works to prepare, or cause to be prepared, a diagram and plat of the whole sewer district, showing all the streets, public grounds, lands, lots and subdivisions thereof in the district and the proposed route and location of the sewer; and the depth, grade and dimensions thereof, and shall procure an estimate of the cost thereof and thereupon the council shall give notice, by publication for at least 2 weeks, in 1 or more of the newspapers of the city, of the intention to construct such sewer, and where said diagram and plat may be found for examination and of the time when the board and the council will meet and consider any suggestions and objections that may be made by parties interested with respect to such sewer.

HISTORY: CL 1897, 3162;—CL 1915, 3076;—CL 1929, 2000.

101.9 Construction resolution, contents; adopted plat, recording. [M.S.A. 5.1796]

Sec. 9. When the council shall determine to construct any such district sewer, they shall so declare by resolution, designating the district and describing by reference to the plat and diagram thereof, mentioned in the preceding section, the route and location, grade and dimensions of the sewer, and shall determine in the same resolution what part of the estimated expenses of the sewer shall be paid from the general sewer fund, and what part shall be defrayed by special assessment according to benefits; and they shall cause such plat and diagram as adopted to be recorded in the office of the city clerk, in the book of sewer records.

HISTORY: CL 1897, 3163; - CL 1915, 3077; - CL 1929, 2001.

101.10 Special assessments. [M.S.A. 5.1797]

Sec. 10. Special assessments for the construction of sewers shall be made by the board of special assessors in the manner provided in this act for making special assessments.

HISTORY: CL 1897, 3164;—CL 1915, 3078;—CL 1929, 2002.

101 11 Construction petition, majority of property owners. [M.S.A. 5.1798]

Sec. 11. When the owner of a majority of the lands liable to taxation in any sewer district or part of the city which may be constituted a sewer district, shall petition for the construction of a sewer therein, the council shall construct a district sewer in such location, and if the lands included in the line of such proposed sewer are not within any sewer district, a district shall be formed for that purpose. In other cases sewers shall be constructed in the discretion of the council.

HISTORY: CL 1897, 3165; CL 1915, 3079; CL 1929, 2003.

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101.12 Private drains; requirements; expense lien. [M.S.A. 5.1799]

Sec. 12. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon, in the manner hereinafter provided for the levying and collecting of special assessments.

HISTORY: CL 1897, 3166; -- CL 1915, 3080; -- CL 1929, 2004

101.13 Same; connection with public sewers. [M.S.A. 5.1800]

Sec. 13. The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the board of public works shall prescribe.

HISTORY: CL 1897, 3167; -CL 1915, 3081; -CL 1929, 2005.

101.14 Same; annual charge, lien. [M.S.A. 5.1801]

Sec. 14. The board of public works may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding 2 dollars per year, as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon, or otherwise.

HISTORY: CL 1897, 3168; -- CL 1915, 3082; -- CL 1929, 2006

101.15 Improvement of ditches, watercourses; special assessment. [M.S.A. 5.1802]

Sec. 15. Such part of the expenses of providing ditches and improving water-courses as the council shall determine, may be defrayed by a special assessment upon the lands and premises benefited thereby, in proportion to such benefits.

HISTORY: CL 1897, 3169; -CL 1915, 3083; -CL 1929, 2007

101.16 Public sewers; repair; cost, payment. [M.S.A. 5.1803]

Sec. 16. The expenses of repairing public sewers, ditches and water-courses may be paid from the general sewer fund. The expenses of reconstructing public sewers shall be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.

HISTORY: CL 1897, 3170;—CL 1915, 3084;—CL 1929, 2008. EXPENSES: Construction cost of sewers, see Compilers' \$ 101.7.

101.17 Sewer ordinances. [M.S.A. 5.1804]

Sec. 17. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to drainage of the city.

HISTORY: CL 1897, 3171;—CL 1915, 3085;—CL 1929, 2009

101 18 Main trunk sewers; money borrowed, vote by electors; bond issue. [M.S.A. 5.1805]

Sec. 18. If the council shall have determined to construct any main sewer in any main sewer district, or any main or trunk sewer, without reference to any sewer district, and if it shall be necessary for the city to borrow money for the payment of the amount determined by the council to be paid from the general sewer fund toward the construction of such sewer in such main sewer district, or for the payment of a trunk sewer to be constructed without reference to a sewer district, then before any further proceedings are had looking towards the construction of such sewer, the council shall cause to be made and recorded in their proceedings an estimate of the amount necessary to be borrowed for such purpose, and the question of borrowing such amount shall be submitted to the electors of the city at its

next annual election or at a special election called for that purpose by the council as provided in this act, and shall be determined as a majority of the electors voting at such election by ballot shall decide; and if a majority of such electors shall vote for the borrowing of such amount of money, then it shall be lawful for any such city to borrow such sum of money not exceeding in all 3 per cent of the assessed value of the property in such city as shown by the last preceding tax roll, to be used exclusively for such purpose. The council shall have power to fix the time and place of the payment of the principal and interest of the debt, contracted under the provisions of this section, and to issue the bonds of the city therefor, but the rate of such interest shall not exceed 6 per cent per annum, and such bonds shall not be sold for less than their par value.

HISTORY: C L 1897, 3172; -- C L 1915, 3086; -- C L 1929, 2010.

CHAPTER XXV-APPROPRIATION OF PRIVATE PROPERTY

105.1 Condemnation purposes. [M.S.A. 5.1855]

Sec. 1. Private property may be appropriated for public use in any city for the purpose of opening, widening, altering or extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures, for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters, and for the improvement of water courses; for sewers, drains and ditches; for public hospitals, pest houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses.

HISTORY: CL 1915, 3136:- CL 1929, 2060.

Chapter 25 of this act appears here as amended, 1899, p. 191, Act 136, Imd. Eff. June 21. For former ster 25, see C.L. 1897, 3222-3246.

CHAPTER XXVI-WATER-WORKS.

106.1 City waterworks. [M.S.A. 5.1884]

Sec. 1. Any city incorporated or re-incorporated under the provisions of this act shall have authority to purchase or construct new and to maintain and extend existing waterworks for the introduction of water into such city, and supplying the same and the inhabitants chereof with pure and wholesome water for the ordinary and extraordinary uses of the inhabitants thereof, the extinguishment of fires and for such other purposes as the council may prescribe.

HISTORY: C L 1897, 3247; -C L 1915, 3165; -C L 1929, 2089.

SANITATION: Supervision and regulation by department of health, see Compilers' \$ 325,201 et seq.

WATER SUPPLY: See Act 5 of 1870, being Compilers' \$ 123.111 et seq.
Power to Turnsah outside territorial limits, see Act 34 of 1917, being Compilers' \$ 123.141 et seq. VALIDATION OF BONDS: For filtration plants and water extension mains, see Act 3, 1911, being C L 1929, -2442; for waterworks, see Act 32, 1911, being C L 1929, 2443-2444; omitted from this compilation.

106.2 Same; construction; maintenance. [M.S.A. 5.1885]

Sec, 2. Such city may acquire, purchase, erect and maintain such reservoirs, canals, aqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes and other apparatus, appurtenances and machinery, and may acquire, purchase, appropriate and own such grounds, real estate, rights and privileges as may be necessary and proper for the securing, construction and maintenance of such waterworks.

HISTORY: CL 1897, 32/48:-CL 1915, 3166;-CL 1929, 2090.

106.3 Same; borrowing power; bonds, issuance. [M.S.A. 5.1886]

Sec. 3. It shall be lawful for any such city, subject to the provisions of this act to borrow any sum of money not exceeding 5 per cent of the assessed value of the property in said city, as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing, constructing or extending waterworks, as provided in the 2 preceding sections. The council shall have the power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the city therefor, but the rate of such interest shall not exceed 6 per cent per annum, and such bonds shall not be sold for less than their par value: Provided. That the total amount expended for constructing, purchasing or extending such waterworks shall not exceed the estimate of expense provided for in section 4 of this chapter.

HISTORY: C.L. 1897, 3249;—C.L. 1915, 3167;—C.L. 1929, 2091.
MUNICIPAL OBLIGATIONS: See Act 202 of 1943, being Compilers' § 131.1 et seq.

106.4 Same; cost estimates; vote by electors; repairs, limitation. [M.S.A. 5.1887]
Sec. 4. Before any money shall be borrowed, appropriated, raised or expended for the purchase, construction or extension of waterworks in any city, the council shall direct the board of public works to cause to be made an estimate of the expense thereof, and the question of raising the amount required for such purpose shall be submitted to the electors of the city at its next annual election or at a special election called for that purpose by the council as provided in this act, and shall be determined as 2/3 of the electors voting at such election by ballot shall decide: Provided, however, That after waterworks have been purchased or constructed by such city the council may then raise and expend, in making repairs or alterations, or in extending such works, such sum as they may see fit, without submitting the question to the electors of the city, but the sum to be raised for such purpose shall be included in and shall not increase the total amount which, by the provisions of section 5, chapter 30 of this act, the council is authorized to raise.

HISTORY: C.L 1897, 3250:—C.L 1915, 3168;—C.L 1929, 2092.

NOTE: Sec. 5, Ch. 30, above referred to, is Compilers' \$ 110.5. For regulations regarding issuance and payment of bonds, see Act 202 of 1943, being Compilers' \$ 131.1 et seq.

106.5 Same; private connections; repairs at owner's expense; permit. [M.S.A. 5.1888]

Sec. 5. The connecting or supplying pipes leading from buildings or yards to the distributing pipes shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the board of public works. All such connecting or supplying pipes shall be constructed and connected in the manner prescribed by such board HISTORY: CL 1897, 3251;—CL 1915, 3169;—CL 1929, 2093.

106.6 Same; water rates, annual, approval of city council; furnishing of water outside corporate limits. [M.S.A. 5.1889]

Sec. 6. The board of public works shall annually, on or before the first Monday in June, establish a scale of rates to be charged and paid for supply of water for the year next ensuing, to be called water rates, which rates shall be approved by the council and shall be appropriate to different classes of buildings in the city, with reference to their dimensions value, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns and all other buildings, establishments and trades, yards number of families or occupants or consumption of water, as near as may be practicable and from time to time, either modify, amend, increase or diminish such rates.

The board of public works, with the approval of the council, is hereby authorized to enter into any contract or contracts for the sale and delivery of water without the corporate limits of the city to an amount not to exceed 25 per cent of the water furnished by said board within the corporate limits of the city. Said board is hereby authorized to prescribe such terms and conditions in any such contract as shall be agreed upon.

HISTORY: CL 1897, 3252;—CL 1915, 3170;—CL 1929, 2094;—Am. 1935, p. 331, Act 204, Eff. Sept. 21. RATES: See Compilers' § 108.9.

106.7 Same; care, control ordinances. [M.S.A. 5.1890]

Sec. 7. The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the waterworks and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter and the powers herein conferred in respect to the construction, management and control of such waterworks.

HISTORY: CL 1897, 3253;-CL 1915, 3171;-CL 1929, 2095.

106.8 Same; property beyond corporate limits, control. [M.S.A. 5.1891]

Sec. 8. When the council shall deem it for the public interest, such waterworks may be purchased, or may be constructed and maintained beyond the corporate limits of the city,

and in such case the council shall have authority to enforce beyond the corporate limits of the city, within the county or counties in which such city is situated and over the buildings, machinery and other property belonging to and connected with such waterworks, in the same manner and to the same extent as if they, or it, were within the city, all such ordinances and police regulations as may be necessary for the care, protection, preservation, management and control thereof.

HISTORY: CL 1897, 3254; -CL 1915, 3172; -CL 1929, 2096.

106.9 Same; construction privileges, duties. [M.S.A. 5.1892]

Sec. 9. For the purpose of operating, constructing, maintaining or extending such waterworks, the city shall have the right to lay conduits, pipes, aqueducts or other necessary works over or under any watercourse, or under and along any street, alley, lane, turnpike, road, railroad or highway within such city, but not in such manner as to obstruct the same or impede or prevent travel thereon; and the city authorities may at all times enter upon and dig up such street, alley, road or highway to lay pipes thereon, or to construct works beneath the surface thereof, but they shall cause the surface of such street, alley, road or highway to be relaid and restored to its usual state, and any damage done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes upon like conditions.

HISTORY: CL 1897, 3255;-CL 1915, 3173;-CL 1929, 2007.

106.10 Same; condemnation. [M.S.A. 5.1893]

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property either within or without the city for the construction and maintenance or for the due operation of waterworks, the right to occupy and hold the same, and the ownership therein and thereto may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public use.

HISTORY: C.L. 1897, 3256;—C.L. 1915, 3174;—C.L. 1929, 2098.
CONDEMNATION: Provisions for taking private property, above referred to, see Compilers' § 105.1 et seq.

106.11 Contract for water supply, time limitation; privileges extended to company. [M.S.A. 5.1894]

Sec. 11. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such city and the inhabitants thereof with water upon such terms and conditions as may be agreed, and may grant to such person, persons or corporation the right to the use of the streets, alleys, wharves and public grounds of such city as shall be necessary to enable such person, persons or corporation to construct and operate proper works for the supply of water for the use of such city and the inhabitants thereof upon such terms and conditions as shall be specified in such contracts.

HISTORY: CL 1897, 3257;—CL 1915, 3175;—CL 1929, 2099.

CHAPTER XXIX-FIRE DEPARTMENT.

109.2 Fire equipment; water supply. [M.S.A. 5.1919]

Sec. 2. The council may purchase and provide suitable fire engines and such other apparatus, instruments and means for the use of the department as may be deemed necessary for the extinguishment of fires; and may sink wells and construct cisterns and reservoirs in the streets, public grounds and other suitable places in the city; and make all necessary provisions for a convenient supply of water for the use of the department.

HISTORY: CL 1897, 3278;-CL 1915, 3200;-CL 1929, 2124.

109.12 Harbor fire ordinances. [M.S.A. 5.1929]

Sec. 12. The council of any city located upon any of the navigable waters of the state may, by ordinance, prescribe such regulations to be observed by owners, masters and employes of steamboats and water craft as may be necessary for the prevention of fires in the harbor, and to prevent the communication of fire from such boats and craft; and may prescribe in such ordinances the manner of collecting any penalties imposed thereby.

HISTORY: CL 1897, 3288;—CL 1915, 3210:—CL 1929, 2134.

HOME RULE CITIES

PUBLIC UTILITIES

Act 279, 1909, p. 497; Eff. Sept. 1.

AN ACT to provide for the incorporation of cities and for revising and amending their charters.

The People of the State of Michigan enact:

117.4f Home rule cities; permissible charter provisions. [M.S.A. 5.2079]
Sec. 4f. Each city may in its charter provide:

Public utilities, acquisition, contracts, referendum, procedure, civil service, tax exemption.

(1) For the purchase or condemnation of the franchises, if any exist, and of the property used in the operation of companies or individuals engaged in the plank road, cemetery, hospital, almshouse, electric light, gas, heat, water and power business, and in cities having not less than 25,000 inhabitants the purchase of the franchise, if any, and the property of street railway and tram railway companies. And each city may in its charter provide that it may make a contract, upon such terms, including terms of present or deferred payment, and upon such conditions and in such manner as the municipality may deem proper, to purchase, operate and maintain any existing public utility property for supplying water, heat, light, power or transportation to the city and the inhabitants thereof. No such contract shall bind the municipality unless the proposition therefor shall receive the affirmative vote of 3/5 of the electors voting thereon at a regular or special election. In the event of any such purchase of a transportation utility, the charter amendment and the contract to purchase may provide for the creation of a sinking fund, into which shall be paid from time to time, from the earnings of the utility, sums sufficient to insure the payment of the purchase price and the performance of the obligations of said contract, to the end that the entire cost of such public utility shall eventually be paid from its earnings. Within a reasonable time after the acquisition of a public transportation utility the officials in charge of the operation shall establish a system of civil service for the selection and retention of its employees. When a vote is taken to amend a city charter for the purpose of acquiring any of the above mentioned powers, a vote may also, by direction of the legislative body of the city, be taken at the same election upon a proposition to make a particular contract within the scope of said proposed amendment: Provided. That the vote upon the charter amendment and upon the proposition to purchase shall be upon separate ballots. When a transportation utility is so acquired, state taxes shall be paid thereon as if privately owned, also local taxes on any portion of such property lying outside of the city limits. The powers in this subdivision contained shall be in addition to the powers provided for in the other subdivisions of this section, and the exercise thereof shall not impair or affect the right to exercise any of the powers in the other subdivisions of this section conferred;

Transportation facilities.

(2) For owning, constructing and operating transportation facilities within its limits, and its adjacent and adjoining suburbs within a distance of 10 miles from any portion of its city limits, if according to the next preceding United States census, or local census taken by authority of a resolution of the legislative body of such city, it had a population not less than 25,000 inhabitants;

Water, light, heat, power, transportation; referendum; service outside corporate limits.

(3) For the purchase and condemnation of private property for any public use or purpose within the scope of its powers; also for the acquirement, ownership, establishment, construction and operation, either within or without its corporate limits, of public utilities for supplying water, light, heat, power and transportation to the municipality and the in-

habitants thereof, for domestic, commercial and municipal purposes; and for the sale and delivery of heat, power and light without its corporate limits to an amount not to exceed 25% of that furnished by it within its corporate limits for like purposes; and for the sale and delivery of water outside of its corporate limits in such amount as may be determined by the -gislative body of the city; and for the operation of transportation lines without the municipality and within 10 miles from its corporate limits; Provided, That the right to own or operate such transportation facilities shall not extend to any city of less than 25,000 inhabitants according to the last preceding United States census, or local census taken by authority of a resolution of the legislative body of such city. The acquirement of any such utility together with all properties, franchises, and rights necessary for its establishment, ownership, construction, operation, improvement, extension and maintenance, whether such properties, franchises and rights are situated within or without the corporate limits of such city, may be either by purchase or condemnation. If by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, being sections 213,21 to 213,41 of the Compiled Laws of 1948, or such other appropriate provisions therefor as exist, or shall be made by law, may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings: Provided, however, That no such public utility shall be so acquired unless the proposition to do so shall have first received the affirmative vote of 3/5 of the electors of such city voting thereon, at a regular or special municipal election;

Sewage disposal system.

(4) For the acquiring, establishment, operation, extension and maintenance of sewage disposal systems, sewers and plants, either within or without the corporate limits of such city, as a utility, including the right to acquire property necessary therefore, by purchase, gift or condemnation, and including the fixing and collecting of charges for service covering the cost of such service, the proceeds whereof shall be exclusively used for the purposes of said sewage disposal system, and which may include a return on the fair value of the property devoted to such service, excluding from such valuations such portions of the system as may have been paid for by special assessment, and which charge may be made a lien upon the property served and if not paid when due, to be collected in the same manner as other city taxes.

HISTORY: Add. 1927, p. 880, Act 367, Eff. Sept. 5;—Am. 1929, p. 288, Act 126, Eff. Aug. 28;—C L 1929, 2236;—Am. 1955, p. 24, Act 26, Eff. Oct. 14;—Am. 1965, p. 152, Act 116, Imd. Eff. July 2.

117.4h Permissible city charter provisions. [M.S.A. 5.2081]

Sec. 4-h. Each city may in its charter provide:

Public ways.

 For the use, regulation, improvement and control of the surface of its streets, alleys and public ways, and of the space above and beneath them;

Public ways and places, use by public utility.

(2) For the use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;

Street and alley plan.

(3) For a plan of streets and alleys within and for a distance of not more than 3 miles beyond its limits;

Water courses.

(4) For the use, control and regulation of streams, waters and water courses within its boundaries, but not so as to conflict with the law or action thereunder where a navigable stream is bridged or dammed; or with riparian or littoral rights without their corporate limits:

Easement along navigable stream; acquisition.

(5) For securing by condemnation, by agreement or purchase, or by any other means, an easement in property abutting or adjacent to any navigable stream, for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any

navigable stream an elevated structure of 1 or more levels for use as vehicular or pedestrian passageway, or for any other municipal purpose;

Parking of vehicles; facilities, charges.

(6) For the acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise the land necessary therefor;

Docking of watercraft and hydroplanes; facilities, charges.

(7) For the acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of pleasure water crafts and/or hydroplanes within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose or purposes to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor.

HISTORY: Add. 1929, p. 292, Act 126, Eff. Aug. 28;—C L 1929, 2238;—Am. 1931, p. 486, Act 295, Imd. Eff. June 8.

THE METROPOLITAN DISTRICT ACT

Act 312, 1929, p. 850: Eff. Aug. 28.

AN ACT to provide for the incorporation by any 2 or more cities, villages or townships, or any combination or parts of same, of a metropolitan district or districts comprising territory within their limits for the purpose of acquiring, owning and operating, either within or without their limits as may be prescribed herein, parks or public utilities for supplying sewage disposal, drainage, water, or transportation, or any combination thereof; to provide that any such district may sell or purchase, either within or without its limits as provided herein, sewage disposal, drainage rights, water, or transportation facilities; to provide that any such district shall have power to acquire and succeed to any or all of the rights, obligations and property of such cities, villages and townships respecting or connected with such functions or public utilities but subject to the approval thereof by a majority vote of the electors thereof voting thereon; to limit the rate of taxation of such districts for their municipal purposes and restrict their powers of borrowing money and contracting debts; to provide the method and vote by which charters may be framed, adopted and amended and laws and ordinances relating to its municipal concerns may be enacted and to define the powers, rights and liabilities of any such district.

The People of the State of Michigan enact:

119.1 Metropolitan districts; purposes; body corporate. [M.S.A. 5.2131]

Sec. 1. Any 2 or more cities, villages or townships or any combination or parts thereof, may incorporate into a metropolitan district or districts comprising territory within their respective limits for the purpose of acquiring, owning, operating and maintaining either within or without their limits, as may be established hereunder, parks or public utilities for supplying sewage disposal, drainage, water or transportation or any combination thereof Each organized district hereunder shall be a body corporate.

HISTORY: CL 1929, 2275.

PORT DISTRICTS

Act 234, 1925, p. 342; Eff. Aug. 27.

An act to provide for the creation and establishment of port districts; to prescribe their rights, powers, duties and privileges; to prescribe their powers of regulation in certain cases; to prescribe their powers in respect to acquiring, improving, enlarging, extending, operating, maintaining and financing various projects and the conditions upon which certain of said projects may extend into another state or county.

The People of the State of Michigan enact.

120.1 Port districts; incorporation, exercise of powers. [M.S.A. 5.2151]

Sec. 1. Port districts are hereby authorized to be created in the various counties of this state, as in this act provided. Such districts whether heretofore or hereafter created, shall be bodies corporate and have a corporate seal, and may sue and be sued and may contract and be contracted with. Port districts shall have all the powers specifically granted to them and any powers implied or necessary for the exercise of the powers specifically granted. Whenever in this act any power is granted to a port district, it shall be exercised by the port commission unless otherwise provided herein, and whenever in this act any power is granted to a port commission it shall be deemed to be granted to the port district but to be exercised by such port commission.

HISTORY: C.L. 1929, 2290;—Am. 1955, p. 288, Act 190, Imd. Eff. June 14;—Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 18.
Title Am. 1955, p. 288, Act 190, Imd. Eff. June 14.

120.2 Referendum petition; filing, examination, certification; resolution of board of supervisors. [M.S.A. 5.2152]

Sec. 2. At any general election or at any special election which may be called for that purpose, the board of county supervisors of any county in this state, may or on petition of 10 per cent of the qualified electors of such county based on the total vote cast in the last county election shall, by resolution, submit to the voters of such county the proposition of creating a port district which will be coextensive with the limits of such county as now or hereafter established. Such petition shall be filed with the county clerk, who shall, within 15 days, examine the signatures thereof and certify to the sufficiency or insufficiency thereof, and for such purpose the county clerk shall have access to all registration books in the possession of the officers of any incorporated city or town in such proposed port district.

HISTORY: CL 1929, 2291.

120.3 Establishment of port district; petitions, election. [M.S.A. 5.2153]

Sec. 3. If such petition be found to be insufficient, it shall be returned to the person or persons filing the same, who may, within 10 days thereafter, amend or add names thereto, when the same shall be returned to the county clerk who shall have an additional 15 days to examine the same and attach his certificate thereto. No person having signed such petition shall be allowed to withdraw his name therefrom after the filing of the same with the county clerk. Whenever such petition shall be certified to as sufficient, the county clerk shall forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the board of county supervisors, who shall submit such proposition at the next general election, or the board of county supervisors may at their first meeting after the date of such certificate, by resolution call a special election to be held not less than 30 days nor more than 60 days from the date of such certificate.

HISTORY: CL 1929, 2292; -Am. 1933, p. 79, Act 67, Imd. Eff. May 1.

120.4 Election, notice; form of ballot. [M.S.A. 5.2154]

Sec. 4. The notice of the election shall state the boundaries of the proposed port district and the object of such election. In submitting the said question to the voters for their

120.5 Same; formation, procedure, referendum, effective date of creation. [M.S.A. 5.2155]

Sec. 5. Any city or township, or any 2 or more whole contiguous cities or townships, or any combination thereof, by resolution of their respective governing bodies, approved by a majority vote of the electors may form a port district. The resolution shall designate the name of the port district and the cities or townships to be included in the port district. The proposition to create the port district shall be submitted at a general or special election held simultaneously in each city or township having indicated its desire to become a part of the port district, and the date of such election shall be set forth in the resolution. The procedures relative to conducting the election shall be as nearly as may be in the same form as provided herein for the formation of a port district coterminous with a county and when not so provided in conformity with the general election laws or the charter of each city. The creation of the port district shall become effective upon the filing with the secretary of state and county clerk of the county in which the cities or townships are located. of certified copies of each resolution, each election notice, and each official canvass of votes showing that in each city or township the proposition was approved by a majority of the electors voting on the proposition.

HISTORY: C.L. 1929, 2294; Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 18.

120.6 Same; district comprising more than 1 county, limitation; lesser port districts. [M.S.A. 5.2156]

Sec. 6. A port district may be comprised of more than 1 whole county if the electors in such counties so elect, and the same procedure shall be followed as is prescribed in this act for the formation of a port district coextensive with a county, except that the board of county supervisors of the respective counties composing the proposed district shall each act in the submission of the proposition and have charge of the elections in their respective counties. No lesser port district shall ever be created within the limits in whole or in part of any port district. No port district shall consist of more than 5 whole contiguous counties.

HISTORY: C.L. 1929, 2295:—Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 18.

120.7 Canvass and declaration of election results; three-fifths vote. [M.S.A. 5.2157]

120.8 Election and survey expenses. [M.S.A. 5.2158]

Sec. 8. All the expenses of elections for the formation of such port districts shall be paid by the county or counties holding election, and such expenditure is hereby declared to be for county purposes. Prior to the adoption of a resolution by the board of supervisors to submit the question of establishing a port district to the electors, said board may expend not to exceed 5,000 dollars for purposes of making a survey and study of a port district plan.

HISTORY: CL 1929, 2297; -Am. 1933, p. 79, Act 67, Imd. Eff. May 1.

120.9 Port districts; commission; appointment, term, vacancies. [M.S.A. 5.2159]

Sec. 9. The control and management of the port district shall be exercised through a port commission consisting of 5 members who shall be appointed by the boards of supervisors. In port districts the boundaries of which are coterminous with a single county at least 2 members shall be residents of the city constituting the seat of the county in which the port district lies. In any port district located in more than 1 county, representation on the port commission from each county covered by the port district shall be, as near as may be, in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. The terms of office of the persons appointed shall be so arranged and designated at the time of their appointment that the term of 2 members shall expire in 3 years, 2 in 2 years, and 1 in 1 year, from July 1 following the appointment. Annually thereafter the boards of supervisors shall appoint the member or members to serve for 3 years as the term of any member or members appointed by them shall expire; any vacancy occurring among the commissioners shall be filled for the unexpired term by the board of supervisors. In any port district, the boundaries of which are coterminous with a city or township or coterminous with 1 or more whole cities or coterminous with 1 or more whole townships, the appointment of members of the port commission shall be made by the governing body of the city or township or cities or townships in which the port district is located, and such members shall hold office and be appointed in the same manner for the same term and subject to the same conditions as members of port districts appointed by the boards of super-

HISTORY: C.I. 1929, 2298;—Am. 1933, p. 79, Act 67, Imd. Eff. May 1;—Am. 1952, p. 245. Act 184, Eff. Sept. 18—Am. 1953, p. 28, Act 32, Eff. Oct. 2;—Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 18;—Am. 1966, p. 564, Act 318, Eff. Mar. 10, 1967.

120.10 Same; quorum, member, term, eligibility, vacancy, removal, oath. [M.S.A. 5.2160]

Sec. 10. In all cases a member shall continue to serve until his successor is appointed and qualified. A majority of the persons holding the office of port commissioner at any time shall constitute a quorum for the transaction of business and the concurrence of the majority of the persons holding such office at the time shall be necessary and shall be sufficient for the passage of any resolution, but no business shall be transacted unless there are in office at least a majority of the full number of commissioners fixed by law. No person shall be eligible to hold the office of port commissioner unless he is a qualified voter. a freeholder within such port district, and is and has been a resident therein for a period of 3 years. No member of any port commission shall have any financial interest, direct or indirect, in the profits of any contract or business transaction with the port district. The foregoing prohibition shall not apply if the commission shall declare on the record, and it is found by unanimous vote of the members present having no such financial interest that the best interests of the district are to be served by the waiving of any such prohibition in a particular case, and then only if competitive purchasing and contracting are used in such case, or if the members of the commission having no such interest, shall unanimously determine that competitive purchasing or contracting is not feasible in such particular case. A vacancy in the office of port commissioner may occur by death, resignation, or removal as hereinafter provided, conviction of a felony, by any statutory disqualification or by any permanent disability preventing the proper discharge of his duties. The boards of supervisors may remove any port commissioner for habitual misconduct, misfeasance, habitual or wilful neglect of duty, or when they are satisfied that such officer is incompetent to properly execute the duties of his office. Any member of any port district appointed by the governing body of a city or township or cities or townships as provided in section 9 of this act, may be removed by said governing body for any of the reasons set forth in this section. Each commissioner shall, within 20 days after he shall receive notice of his appointment, qualify by taking and subscribing the constitutional oath of office.

HISTORY: C L 1929, 2299; Am. 1952, p. 245, Act 184, Eff. Sept. 18; Am. 1953, p. 29, Act 32, Eff. Oct. 2 Am. 1958, p. 204, Act 178, Imd. Eff. Apr. 18 120.11 Same; submission of propositions at elections, canvass of votes. [M.S.A. 5.2161]

Sec. 11. At any general state election propositions may be submitted to the electors on such subjects as the port commission of a port district may by resolution prescribe subject to the limitations and pursuant to the requirements of this act. At the request of the port commission the governing body of the cities or townships or the county or counties comprising the port district shall call a special election for the submission of propositions and the expenses of such elections shall be paid by the port district. It shall be the duty of the election officials of the cities or townships or the county or counties in a port district to prepare the ballots or voting machines for general or special elections so that questions submitted by the port commission shall be submitted to the electors. The canvass of votes on such questions shall, if the port district be located in a single county, be made by the board of county canvassers, and if it be located in more than 1 county, be made by the board of state canvassers. The general election laws of the state shall govern the conduct of all such elections and the qualifications of electors.

HISTORY: C L 1929, 2300;—Am. 1931, p. 492, Act 299, Eff. Sept. 18;—Am. 1933, p. 79, Act 67, Imd. Eff. May 1. Am. 1958, p. 204, Act 178, Imd. Eff. Apr. 18.

120.12 Same; compensation of commissioners, mileage, expenses. [M.S.A. 5.2162]

Sec. 12. Port commissioners shall receive such compensation as shall be determined and fixed by resolution of the governing body of the cities or townships or the board of supervisors of the county or counties in which the port district is located. Port commissioners, while actually engaged in the performance of their duties, outside the area of the port, shall also be paid their actual traveling expenses, both said traveling expenses and mileage to be submitted in writing to the port commission, and to be audited and approved in writing by said port commission before payment.

HISTORY: CL 1929, 2301:—Am, 1933, p. 80, Act 67, Imd. Eff. May 1;—Am 1939, p. 298, Act 153, Imd. Eff. May 26:—Am, 1941, p. 500, Act 290, Imd. Eff. June 17;—Am, 1955, p. 288, Act 190, Imd. Eff. June 14—Am, 1958, p. 205, Act 178, Imd. Eff. Apr. 18.

120.13 Acquisition of property. [M.S.A. 5.2163]

Sec. 13. Each port commission shall have power to acquire by purchase or condemnation, or both, all lands, property, property rights, leases or easements necessary for the purposes of the port districts and to exercise domain in the acquirement or damaging of all land, property, property rights, leases or easements. Such right of domain shall be exercised in the same manner and by the same procedure as is and may be provided by law for the taking of private property by the board of county supervisors in this state, except insofar as such may be inconsistent with the provisions of this act, and the duties devolving upon the county treasurer under such law shall be and the same are hereby imposed upon the county treasurer for the county in which such property is located for the purposes of this act.

HISTORY: C.L. 1929, 2302;—Am. 1966, p. 564, Act 318, Eff. Mar. 10, 1967. CONDEMNATION: See Compilers' § 213.1 et seq., and especially Compilers' § 213.21 et seq.

120.13a Port districts, acceptance of grants, approval. [M.S.A. 5.2163(1)]

Sec. 13a. Each port commission may accept gifts, grants, loans or contributions from the United States of America, this state, local municipalities, foundations, any public or private agency or any individual. In port districts coterminous with a county or counties, such authority shall not be exercised without first obtaining the approval therefor by a majority vote of the members elect of the board of supervisors of each county wherein the port district is situated.

HISTORY: Add. 1964, p. 94, Act 95.

120.14 Public improvements; commodity handling; advertising; acquisition; approval. [M.S.A. 5.2164]

Sec. 14. Each port district shall have power to lay out, construct, condemn, purchase, acquire, improve, enlarge, extend, maintain, conduct and operate, seawall jetties, piers,

wharves docks boat landings, warehouses, storehouses, elevators, grain bins, cold storage plants, terminal icing plants, bunkers, oil tanks, ferries, canals, locks, bridges, seaways, tramways, cableways, conveyors, modern appliances for the economical handling, storing and transporting of freight and handling of passenger traffic and other harbor improvements, and rail and water transfer and terminal facilities, (the foregoing being sometimes hereinafter referred to as "public improvements") and in connection with the operation of the port district to perform all customary services including the receiving, delivering, handling, weighing, measuring and reconditioning of all commodities received, and the advertisement of the business of the port district. No such public improvement shall be acquired without first obtaining the approval thereof by a 2/3 vote of the members present and voting of the board or boards of supervisors of the county or counties in which the port district is situated. In addition to the foregoing powers each port commission shall have the following powers:

Licensing of marine cargo handlers.

(a) To license all marine contractors, stevedoring companies, towing firms, and any others operating or proposing to operate a business or service in connection with the handling of marine cargo within said port district.

Construction in navigable waters; harbor, pierhead and bulkhead lines.

(b) Subject to the paramount authority of the federal government and the state or any municipality thereof, to regulate the construction of structures in navigable waters including the establishment of harbor lines, pierhead lines and bulkhead lines.

Private marine facilities.

(c) To require within the area designated as the port area by the comprehensive port plan the repair, rebuilding, or in the alternative the removal, by the owners, of private marine facilities when said private marine facilities are determined by the port commission to constitute a hazard to navigation. The determination of the port commission shall be made in the manner and in accordance with the standards prescribed in the building and safety code of the municipality wherein said private facility is located.

Rules and regulations; approval; appeals.

(d) The powers granted in subsections (a), (b) and (c) above shall be exercised by the port commission in accordance with such rules and regulations as shall be adopted by a majority vote of the port commission and approved by a majority vote of the members elect of the board of supervisors. If within 180 days after submission to said board such board fails to disapprove such rules and regulations, it shall be thereupon presumed that such board has approved the same. Appeals from determinations of the port commission shall be had in the same manner as appeals on "contested cases" as provided in Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

Representation for port district.

(e) To represent the port district before all federal, state and local agencies.

Cooperation with other agencies, industry and business.

(f) To cooperate with other public agencies and with industry and business in port improvement matters.

Planned industrial districts.

(g) To lay out, construct, condemn, purchase, acquire, operate, lease, sell and convey planned industrial districts within the confines of the area designated as the port area by the comprehensive port plan and adjacent to existing port facilities and improvements.

HISTORY: C.L. 1929, 2303;—Am. 1933, p. 80, Act 67, Imd. Eff. May 1;—Am. 1955, p. 289, Act 190, Imd. Eff. June 14;—Am. 1961, p. 11, Act 10, Imd. Eff. May 3;—Am. 1966, p. 565, Act 318, Eff. Mar. 10, 1967.

120.15 Bonds and notes, issuance. [M.S.A. 5.2165]

Sec. 15. Whenever in order to carry out the purposes of this act it becomes necessary to acquire property which cannot be wholly paid for out of any funds which may be avail-

able to the commission under the provisions of section 24, the commission is authorized and empowered to issue notes, bonds or other evidences of indebtedness which shall be a lien upon the property to be acquired for such purposes, which lien may be secured by a mortgage, trust deed, or other form of indenture, and is also authorized and empowered to, in the name of the port district, guarantee the payment in whole or in part of any and all such notes, bonds or other evidences of indebtedness according to the terms thereof, or of any mortgage, trust deed or other security issued in connection therewith.

HISTORY C 1, 1929, 2304. Am. 1933, p. 80, Act 67, Imd. Eff. May 1; Am. 1958, p. 355. Act 178, Imd. Ff. Apr. 18; Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

120.16 Revenue bonds; full faith and credit, limitations, approval. [M.S.A. 5.2166]

Sec. 16. In lieu of the bonds authorized in section 15, any port district may issue revenue bonds as provided in Act No. 94 of the Public Acts of 1933, as amended, being sections 141,101 to 141,139 of the Compiled Laws of 1948, or as may be provided in any other appropriate statute of this state, for the purpose of financing the whole or any part of the cost of acquiring, improving, enlarging, extending or repairing any of the public improvements mentioned in section 14 and in such case any such public improvements shall be deemed to be a "public improvement" under said act, and the port district shall be governed by the provisions of said act in all matters covered thereby. No such bonds shall be issued without first obtaining the approval therefor by a majority vote of the governing body of each of the cities, townships or counties that are member units of the port districts. Revenue bonds which pledge the faith and credit of the port district shall be controlled by the general revenue limitations of section 24. No bonds, which pledge the faith and credit of the county or counties wherein the port district is situated, shall be issued without first obtaining the approval of the electors.

HISTORY: C L 1929, 2305;—Am. 1933, p. 80, Act 67, Imd. Eff. May 1;—Am. 1955, p. 290, Act 190, Imd. Eff. June 14;—Am. 1958, p. 205, Act 178, Imd. Eff. Apr. 18;—Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

120.17 Same; lands, leases and easements. [M.S.A. 5.2167]

Sec. 17. Each port commission shall have power to own and control lands, leases, and all easements in land necessary for the purposes of the port district. HISTORY: C.L. 1929, 2306.

120.18 Same; streams, improvement. [M.S.A. 5.2168]

Sec. 18. Each port commission shall have power to improve navigable and non-navigable streams of the United States and the state of Michigan within the port district. HISTORY: C L 1929, 2307.

120.19 Same; waterways, creation and improvement. [M.S.A. 5.2169]

Sec. 19. Each port commission shall have power to create and improve for harbor purposes any waterways within the port district; to regulate and control all such waters and all natural or artificial waterways within the limits of such port district so far and to the full extent that this state can grant the same and remove obstructions therefrom.

HISTORY: CL 1929, 2308.

120.20 Payments in lieu of taxes; appeals from levy or assessment of taxes. [M.S.A. 5.2170]

Sec. 20. Any port district owning and operating an income-producing public improvement shall pay from such income annual sums in lieu of taxes to the county, city, school district or other taxing unit of the state, with respect to any real or personal property held by it and which constitutes a part of such improvement. The amount so paid to each taxing unit in each year shall be equivalent to the taxes which would have been paid if such property were not exempt from taxation. The port district shall have the same right of appeal as is provided by law to any other taxpayer insofar as any levy or assessment of such taxes is concerned.

HINTORY: C.1, 1929, 2309; Am. 1955, p. 290, Act 190, Imd. Eff. June 14; Am. 1966, p. 366, Act 318, Eff. Mar. 10, 1967.

120.21 Rates; approval; limitations. [M.S.A. 5.2171]

Sec. 21. Each port district shall have power to fix and collect tolls, fees, rents and other charges for the use of the services, property, facilities and commodities furnished by it, subject to review and approval of a majority of the members present and voting of the board or boards of supervisors of the county or counties in which the port district is situated. The tolls, fees, rents and other charges shall at no time be less than necessary to satisfy the requirements of any statute, ordinance or resolution under which revenue bonds then outstanding shall have been issued by the port district.

HISTORY C.L. 1929, 2310. Am. 1938, p. 200, Act 190, Ind. Eff. June 14; Am. 1966, p. 566, Act 318

SCHEDULE OF RATES: See Compilers \$ 462.10.

120.22 Lease of property, maximum term, bond. [M.S.A. 5.2172]

Sec. 22. Each port commission shall have power to lease under such covenants and conditions as the commission may prescribe, all storage facilities, wharves, piers, bulkheads, docks, sheds, warehouses, industrial locations and other property owned and controlled by said port district upon such terms as the port commission may deem proper: Provided, That no lease shall be executed for longer than a period of 50 years and every such lease shall be secured by a bond with surety satisfactory to or approved by the port commission. HISTORY C.L. 1929, 2311; Am. 1933, p. 81, Act 67, Ind. Eff. May 1; Am. 1955, p. 290, Act 190, Ind.

120.23 Sale of property, approval. [M.S.A. 5.2173]

Sec. 23. Each port commission shall have power to sell and convey any property in anywise acquired and owned by the port district whenever the port commission of such district shall have by resolution declared such property to be no longer needed for the purpose of the port district: Provided. That the power herein granted to the commission shall not be exercised without first obtaining the approval therefor by a 2/3 vote of the members elect of the board of supervisors of the county or counties in which such property is

HISTORY: C.L. 1929, 2317; —Am. 1933, p. 81. Act 67, Imd. Eff. May 1; —Am. 1955, p. 291, Act 180, Imd. Eff. June 14.

120.24 Taxes; special assessments; allocation of millage; appropriations. [M.S.A. 5.2174]

Sec. 24. Each port commission shall have power to raise revenue by a tax to be levied on all taxable property within such port district, not exceeding 2 mills in any one year on each dollar of the assessed valuation of the taxable property in such port district. The tax shall be for such number of years as approved by the electors of the cities or townships or of the county or counties and shall be levied and collected in the same manner now provided for the levy of state and county taxes under the general tax law, and shall be paid to the county treasurer having custody of the port district fund, to the credit of such fund, and such tax shall not exceed \$1.500,000.00 in any one year. If the port commission is authorized under any present or future law of the state to establish special assessment zones and to raise revenue through the medium of special assessments for benefits within such zones. taxes so assessed shall be in excess of such 2 mill limitation. This act shall not authorize a county allocation board to allocate millage within the 15 mill limitation for capital construction purposes, except to meet any deficiency in the payments of principal or interest upon bonds regularly issued with the approval of the electors. Funds may be appropriated from regular millage for operating purposes only in an amount to be established by the board of supervisors, and the board of supervisors may also appropriate for any purposes moneys obtained as revenues from the operation of the port.

HISTORY: C.I. 1929, 2313;—Am. 1931, p. 492, Act 299, Eff. Sept. 18;—Am. 1933, p. 81. Act 67, Imd. Eff. May 1: Am. 1958, p. 193, Ver 178, Imd. Eff. Apr. 18: Am. 1964, p. 29, Act 24, Imd. Eff. Apr. 20;—Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

NOTE: For ections in "fourth class cities" act dealing with finance and taxation, see Compilers' \$ 110.1

Secs. 24a, 24b.

HISTORY: Add, 1933, p. 82, Act 67, Imd. Eff. May 1; Sec. 24b Am. 1937, p. 37, Act 12, Imd. Eff. Apr. C L 1948, 120 24a, 120 24b; Rep. 1958, p. 208, Act 178, Imd. Eff. Apr. 18.

120.25 Port commission; bond issues, limit, approval by governing bodies or electors. [M.S.A. 5.2177]

Sec. 25. Each port commission shall have power to borrow money and issue bonds to an amount not greater in any one year than 1/5 of 1% of the total assessed valuation of such port district, nor to a total amount including all outstanding bonded indebtedness of such district exceeding 2% of the assessed valuation of such district and at a rate of interest not to exceed 6% after a resolution to that effect is passed by the majority of the board of commissioners and approved by a 3/5 majority of the members elect of the governing body of the cities or townships or of the board of supervisors of the county or counties of the port district, and the question shall be submitted to a vote of the electors of the district at a general election and 51% of the electors voting on such resolution shall vote in favor thereof. The election officials of the cities or townships or of the county or counties in the port district shall prepare the ballots or voting machines. The canvass of votes on such question shall, if the port district be located in a single county, be made by the board of county canvassers, and if it be located in more than 1 county, be made by the board of state canvassers. The general election laws of the state shall govern the conduct of the vote and qualifications of electors. In any port district having an assessed valuation of \$50,000,000,00 or less, the commission shall have power to borrow money and issue bonds to an amount not greater in any one year than 11/2% of the total assessed valuation of such district. General bonds for any such district may be issued for any period not exceeding 30 years. No bond or evidence of indebtedness shall be negotiated at less than par and the accrued interest. The question of a bond issue may be submitted to the electors at the same time that the question of the creation of a port district is submitted to them, but a vote authorizing a bond issue shall be invalid unless the creation of the district is also authorized by the electors voting thereon. In such case the expense of the elections shall be paid by the cities or townships or the county or counties and the question of the bond issue shall be submitted in substantially the following form: "Shall the port commission, if authority be given for its creation at this election, have the in bonds for port improvements?" power to issue

HISTORY: C.E. 1929, 2314: Am. 1931, p. 492, Act 299, Eff. Sept. 18; Am. 1933, p. 82, Act 67, Imd. Eff. May 1. Am. 1937, p. 17, Act 12, Imd. Eff. Apr. 24; Am. 1958, p. 206, Act 178, Imd. Eff. Apr. 18; Am. 1964, p. 94, Act 96, Eff. Aug. 28.

120.26 Same; assistants and employes. [M.S.A. 5.2178]

Sec. 26. Each port commission shall have power to employ such assistants, clerks, inspectors, engineers, legal counsel or other employes for carrying out the purposes of the port commission, and fix the salaries, compensation and bonds of such employes as it may by resolution provide, subject, however, to the provisions of section 34 hereof.

HISTORY: Am. 1931, p. 493, Act 299, Eff. Sept. 18; -Am. 1933, p. 82, Act 67, Imd. Eff. May 1.

120.27 Expenditures, authority, bids. [M.S.A. 5.2179]

Sec. 27. No port district coterminous with a county, or comprising an area greater than a county, shall be empowered to make any expenditure or any commitment for the expenditure of funds, arising from any source whatsoever, except to the extent that the same shall have been first duly authorized by the port district budget committee if there be one and specific appropriations made by the board or boards of supervisors of such county or counties: Provided. That nothing in this act contained shall be construed as preventing a port district from making any expenditure or commitment, or performing any act, required by any statute or by the terms of any ordinance or resolution pertaining to the issuance of revenue bonds, if such issuance was approved by the board or boards of supervisors as required in section 16 of this act. In all cases involving the expenditure of \$1,000.00, or more, each port commission shall enter into contract with the lowest competent and reliable bidder for all work to be done and for the purchase of all supplies and materials required by the port district.

HISTORY: C.L. 1929, 2316; Am. 1955, p. 291, Act 190, Imd. Eff. June 14;—Am. 1958, p. 206, Act 178, Imd. Eff. Apr. 18.

120.28 Same; lease of harbor area, rents. [M.S.A. 5.2180]

Sec. 28. The port commission of each port district shall have full power and authority to lease the harbor area belonging to the state of Michigan situated within such port district, to the highest bidder upon such terms and conditions as shall conform to the provisions of this act and to the comprehensive scheme of harbor improvement as herein later provided. Every such lease shall provide that the rental thereunder shall be payable to the county treasurer wherein such port district is situated for the use of such port district and to go into a special fund hereinafter provided for: Provided, That where the port district covers 2 or more counties such rents shall be paid to the county treasurer designated by the port commission.

HISTORY: C.I. 1020, 2317. Am. 1038, p. 206, Act 178, Imd. Eff. Apr. 18.

120.29 Same; officers, election, power; seal; proceedings; funds; office; maps, charts, plans and documents. [M.S.A. 5.2181]

Sec. 29. The port commission shall organize by electing from among its members a chairman, vice chairman and secretary. The officers so selected shall possess and exercise such powers as may, from time to time, be granted to them by the commission. The port commission shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings of the board of commissioners shall be by resolution recorded in a book or books kept for such purpose which shall be public records, all funds of the port district shall be paid to the county treasurer, of the county in which said port district is situated, or if it consists of 2 or more whole counties, then to the county treasurer designated by the commission, and all disbursements shall be made by such officer on warrants drawn by the county auditor, or in port districts having no county auditor on warrants drawn by the county clerk, upon order of or vouchers approved by the port commission. The port commission shall have an office in which they shall keep maps, charts, plans, and documents relating to the land and waters and all matters in their charge, and the commission shall at all times have access to any other maps, charts, plans and documents relating to said port district in the office or custody of any public board, commission or officer.

HISTORY: C.L. 1929, 2318;—Am. 1937, p. 504, Act 277, Imd. Eff. July 22;—Am. 1958, p. 207, Act 178, Imd. Eff. Apr. 18

120.30 Comprehensive port plan of harbor improvements; notice, hearing; approval by municipalities; restrictions. [M.S.A. 5.2182]

Sec. 30. It shall be the duty of the port commission of any port district, before creating any improvements hereunder, to adopt a comprehensive port plan of harbor improvement in such port district after a public hearing thereon, of which at least 10 days' notice shall be published in a daily newspaper of general circulation in such port district. Such comprehensive port plan shall include an indication of the relationship of the area designated as the port area by the comprehensive port plan to land transportation and other land uses related to port activities. The port commission shall submit to the legislative body of any city, village or township, for its approval, that portion of the comprehensive plan which includes territory lying within the boundaries of the said city, village or township. Such submission shall be made by delivering the said portion of the comprehensive port plan to the clerk of the city, village or township involved, and if approved by the legislative body thereof, shall take effect from the date of such approval. If within 180 days after submission the legislative body of such city, village or township fails to disapprove such portion of the plan as shall have been submitted, it shall be thereupon presumed that such city, village or township has approved the same and such portion of the plan shall become effective without further notice. If the legislative body of the city, village or township to which a portion of the plan as amended or altered has been submitted disapproves the same, the commission may proceed to make such public improvements on lands leased or owned by the port commission as are prescribed in said plan to be made in the other part or parts of the port district. The port commission shall have the power to amend or alter the comprehensive port plan: Provided, however, That wherever such

amendments or alterations of the comprehensive port plan include any area or territory lying within a city, village or township, that portion of the amendment or alteration shall be submitted to the legislative body of said city, village or township for its approval. Such submission shall be made by delivering the said portion of the comprehensive port plan, as amended or altered, to the clerk of the city, village or township involved, and if approved by the legislative body thereof, shall take effect from the date of such approval. If within 180 days after submission the legislative body of such city, village or township fails to disapprove that portion of the amendment or alteration of the comprehensive plan, it shall be thereupon presumed that such city, village or township has approved the same, and such portion of the comprehensive plan, as amended or altered, shall become effective without further notice. If the legislative body of the city, village or township to which a portion of the plan as amended or aitered has been submitted disapproves the same, the commission may proceed to make such public improvements on lands leased or owned by the port commission as are prescibed in such amendment or alteration of the port plan to be made in the other part or parts of the port district. Wherever the legislative body of any city, village or township has approved that portion of the comprehensive port plan which includes the area or territory of such city, village or township, it shall be the duty of the port commission to recommend the zoning district classifications for the area to said legislative body: Provided, however. That nothing herein contained shall be construed as conferring, directly or indirectly, upon said port district, or port district commission or authority, power or powers to acquire, own, maintain or operate the Detroit, Michigan-Windsor, Ontario, Canada tunnel or international bridge: And provided further, That where any language in said act is in conflict with this prohibition, then and in that event any such language shall be deemed to be void and of no force or effect.

HISTORY C.I. 1929, 2319; Am. 1931, p. 493, Act 299, Eff. Sept. 18; Am. 1935, p. 291, Act 190, End. Eff. Inne. 14

120.31 Property rights in improvements; cooperation between port district and certain other public bodies. [M.S.A. 5.2183]

Sec. 31. No improvements shall be acquired or constructed by the port district unless such improvements shall, when completed, be the property of such port district, the county in which such port district is located, any commercial waterway district created within its boundaries, any city within such port district, the state of Michigan, or the United States of America, and the funds of such port district may be expended in the acquirement or construction of any harbor improvement embraced in such general plan adopted as in this act provided, in conjunction with the county in which such port district is located, any commercial waterway district created within its boundaries, any city in such port district, the state of Michigan, or the United States of America, or any or all of them.

HISTORY: CL 1929, 2320:—Am. 1931, p. 493, Act 299, Eff. Sept. 18.

120.32 Power to borrow in anticipation of tax. [M.S.A. 5.2184]

Sec. 32. Any port commission is hereby authorized, prior to the receipt of taxes raised by levy, to borrow money or issue the warrants of the district in anticipation of the revenues to be derived by such district from the levy of taxes for the purpose of such district during any year, and such warrants shall be redeemed from the first money available from such taxes when collected.

HISTORY: C L 1929, 2321.

120.33 Same; fund created; special funds; disbursement. [M.S.A. 5.2185]

Sec. 33. The county treasurer of the county in which the port district is located, or in the event that the district covers 2 or more whole counties, then the county treasurer designated by the port commission shall create a fund to be known as the "Port of Fund," into which shall be paid all money received by him from the collection of taxes in behalf of such port district, and no money shall be disbursed therefrom except upon warrants of the county auditor, or upon order of or vouchers approved by the port commission. The county treasurer shall also maintain such other special

funds as may be prescribed by the port commission, into which shall be placed such moneys

as the port commission may by its resolution direct, and from which disbursements shall be made upon proper warrants of the county auditor or county clerk issued against the same by authority of the port commission.

HISTORY C I 1929, 2322 Am. 1958, p. 207, Act 178, Imd. Eff. Apr. 18.

120.34 Annual reports, budgets; budget committee. [M.S.A. 5.2186]

Sec. 34. The commission shall on or before September 1 of each year submit a written report to the governor, the legislature, the public service commission, and the governing body of the cities or townships or the board of supervisors of the county or counties of the port district, which report shall contain a statement of the doings of the port commission during the preceding calendar year and such recommendations as to legislation as in the opinion of the commission may be necessary or expedient to enable the commission better to administer the affairs of the port district and to carry out the purposes for which the port district was enacted. In port districts coterminous with a county the commission shall also file with the board of supervisors of the county on or before September 1 of each year a budget setting out in detail its program for the ensuing year, together with the several amounts estimated by the commission to be necessary for the purposes indicated therein. The board of supervisors may decrease the budget proposed by the commission and also eliminate specific items. In port districts coterminous with 2 or more counties, the boards of supervisors of the counties included in the port district shall appoint a port district budget committee composed of not more than 15 members of the boards of supervisors. Representation on the port district budget committee from each county in the port district shall be, as near as may be, in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. The port district budget committee shall review the budget request of the commission and recommend to the boards of supervisors of the counties in the port district the budget for the port district. The boards of supervisors may decrease the budget recommended by the port district budget committee and also eliminate specific items. The budget shall be approved by boards of supervisors with 66-2/3% of the state equalized value of the total port district and the budget as approved shall be reported to the port district budget committee and port commissions, and shall become final and binding on the boards of supervisors of all the counties in the port district, and the boards of supervisors shall appropriate their proportionate share of the total budget for the port district. The budget shall be apportioned between the counties in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. No money shall be expended by the commission for any purpose not included in the budget as approved by the port district budget committee and the boards of supervisors of the county or counties in the district. In port districts coterminous with a county, all disbursements shall be made by the county treasurer on warrants drawn by the board of county auditors, or in port districts having no board of county auditors on warrants drawn by the county clerk, upon order of vouchers approved by the port commission. In port districts of 2 or more counties, disbursements shall be made by the county treasurer designated by the commission subject to the same conditions imposed on the county treasurer of a port district coterminous with 1 county. Port districts coterminous with a city or township shall follow the same procedure, as near as may be, substituting the local governing body and local officers where applicable for the board of supervisors and county officials, and be subject to the same conditions as set forth for county port districts, and port districts coterminous with 2 or more cities or townships shall in the same manner follow the procedure as near as may be and be subject to the same conditions as set forth for port districts coterminous with 2 or more counties.

HISTORY: C.I. 1939, 2323; Am. 1933, p. 83, Act 67, Imd. Eff. May 1; Am. 1958, p. 207, Act 178, Imd. Eff. Apr. 18; Am. 1966, p. 567, Act 318, Eff. Mar. 10, 1967.

120.34a Port districts coterminous with cities and townships; powers of local governing bodies. [M.S.A. 5.2186(1)]

Sec. 34a. In construing this act, port districts coterminous with a city or township shall follow the same procedure, as near as may be, substituting the local governing body

and local officers where applicable for the board of supervisors and county officials, shall enjoy the same powers and be subject to the same conditions as set forth for county port districts, and port districts coterminous with 2 or more cities or townships shall in the same manner follow the same procedure, as near as may be, shall enjoy the same powers and be subject to the same conditions as set forth for port districts coterminous with 2 or more counties.

HISTORY Add 1960, p. 32, Act 40, Eff. Aug. 17.

120.35 Act construed. [M.S.A. 2187]

Sec. 35. This act shall not be construed to repeal, amend, or modify any law heretofore enacted, providing a method of harbor improvement, regulation or control in this state, but shall be held to be an additional and concurrent method providing for such purpose and except by agreement between the port commission and the parties at interest, shall not be construed to include within its terms any property now or hereafter devoted to public use, owned, operated or controlled by any person, municipality or private corporation.

HISTORY: C L 1929, 2324.

Sec. 36

HISTORY: Add. 1955, p. 292, Act 190, Imd. Eff. June 14; Rep. 1966, p. 568, Act 318, Eff. Mar. 10, 1967. ORIGINAL Sec. 36 was a severing clause section: C.L. 1929, 2325; Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

Act. 251, 1966, p. 340; Imd. Eff. July 11.

AN ACT relating to declare certain policies of the state of Michigan; to designate the department of commerce as the agency of this state to cooperate and negotiate with port districts and others; to provide for the making of grants to port districts and the administration thereof; to authorize studies to assist in stimulating port traffic; to authorize the department to represent the state before other governmental units; to direct the establishment of port promotional programs; and to provide other powers, rights and duties of the department.

The People of the State of Michigan enact:

120.51 State port and commercial harbor facilities; planning and development; state agency. [M.S.A. 5.2195(1)]

Sec. 1. The department of commerce is designated the state agency to cooperate and negotiate with port districts, port authorities, other governments, governmental units and agencies thereof in matters concerning the planning, acquisition, development, operation, maintenance and administration of port and commercial harbor facilities in this state.

120.52 State grants; requests, filing; budget request; disbursement of funds; annual report. [M.S.A. 5.2195(2)]

Sec. 2. Any port district created in accordance with the laws of this state, after receiving the approval of a majority of the members of the board of supervisors of the county in which the port district is situated, may request matching grants from the state to assist the port district in the planning, acquisition, development or expansion of port facilities, including lands, buildings, warehouses and similar facilities, acquired or to be acquired by the port district. The requests shall be filed with the department of commerce and the department shall include in its annual budget request, a listing of the funds requested by the various port districts and the recommendations of the department with respect thereto. Funds appropriated by the legislature to the various port districts shall be disbursed through the department which shall enter into appropriate agreements with the port districts prescribing the terms and conditions of the grants in accordance with the applicable laws of this state. The department shall on or before September 1 of each year submit a written report to the governor and the legislature.

120.53 Cooperative agreements for studies and research. [M.S.A. 5.2195(3)]

Sec. 3. The department may cooperate and enter into agreements with the United States and any agency or department thereof in the conduct of studies, research programs and related investigations designed to make available to port districts of this state, information to assist in stimulating, increasing or developing traffic within the port districts; but in no case shall the department obligate the state without legislative approval. To the greatest extent possible, any such studies shall be conducted in conjunction with port districts of this state.

120.54 Transportation rates; establishment, continuance, modification or discontinuance. [M.S.A. 5.2195(4)]

Sec. 4. The department shall conduct investigations of transportation rates and shall represent the state and the various port districts before any agency of this state, the United States, or any agency or department thereof, on all matters relative to the establishment, continuance, modification or discontinuance of transportation rates insofar as the rates affect port districts or shipping operations on the navigable waters of this state.

120.55 Budget request for funds and administrative costs. [M.S.A. 5.2195(5)]

Sec. 5. The department shall include in its annual budget request such funds as shall be necessary to permit the conduct of the programs and activities authorized by the provisions of this act, including administrative costs thereof.

120.56 Construction of act. [M.S.A. 5.2195(6)]

Sec. 6. In construing this act, port districts coterminous with a city or township shall follow the same procedure as is prescribed for counties, substituting the local governing body and officers where applicable for the board of supervisors and county officials. Whenever in this act any power is granted to a port district, it shall be exercised by the port commission unless otherwise provided herein. Whenever in this act any power is granted to a port commission it shall be deemed to be granted to the port district but to be exercised by such port commission.

CHARTER WATER AUTHORITY ACT

Act 4, 1957, p. 5; Imd. Eff. March 20.

AN ACT to provide for the incorporation of municipal authorities to acquire, own and operate water supply and transmission systems; to provide a municipal charter therefor; and to prescribe the powers and functions thereof.

The People of the State of Michigan enact:

121.1 Charter water authority; definition; intent of act, limitation on authority. [M.S.A. 5.2533(31)]

Sec. 1. As used in this act, "water supply and transmission system" means plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply and the treatment thereof, and necessary transmission mains and appurtenances for the distribution of the water to the cities, villages and townships within the territorial limits of the authority. The cities, villages and townships shall continue to own, operate and maintain their own water distribution systems. It is the intent of this act to provide an equitable and reasonable method and means of financing and acquiring a central water supply and transmission system to supply potable water in sufficient quantities to local governmental units for distribution and sale to their own customers and users. The authority shall be limited to acquiring, owning and operating the central water supply and transmission system in the manner authorized by this act, either within or without the corporate limits of the authority.

121.2 Incorporating municipalities; act as charter. [M.S.A. 5.2533(32)]

Sec. 2. Any 2 or more cities, villages or townships, or any combination thereof, having a combined current state equalized valuation of not less than \$200.000.000.00, by vote of their respective electors, may incorporate an authority comprising the territory within their respective limits for the purpose of acquiring, constructing, purchasing, operating and maintaining a water supply and transmission system. The authority shall be a public municipal corporation with the rights, powers and duties set forth in this act, which act shall constitute the charter of such municipal corporation

121.3 Referendum on joinder; form of ballot. [M.S.A. 5.2533(33)]

Sec. 3. Each city, village or township desiring to become a part of the authority shall indicate, by resolution of its legislative body, its desire to become a part thereof, and shall submit the proposition of becoming a part of the authority to a vote of its qualified electors at a general or special election to be called for such purpose. The procedures relative to conducting the election shall be as provided in the general election law. The proposition to be submitted in each city, village or township shall be substantially as follows:

"Shall the (city, village or township, as the case may be) of _______, become a part of an authority incorporated as a municipal corporation under the provisions of Act No. ______ of the Public Acts of 1957, entitled 'An act to provide for the incorporation of municipal authorities to acquire, own and operate water supply and transmission systems; to provide a municipal charter therefor; and to prescribe the powers and functions thereof,' said municipal authority to have the power pursuant to its charter to issue general obligation bonds and to levy taxes for the payment thereof, the total principal amount of which bonds at no time shall exceed 5% of the total state equalized valuation of the governmental units comprising the authority?

Yes () No ()."

121.4 Same; simultaneous submission. [M.S.A. 5.2533(34)]

Sec. 4. Any city, village or township shall become a member of the authority when a majority of the electors voting on the proposition vote in favor thereof. The proposition

to incorporate the authority shall be submitted at a general or special election held simultaneously in each city, village or township having indicated its desire to become a part of the authority.

121.5 Same; certificates, incorporation, name. [M.S.A. 5.2533(35)]

Sec. 5. If on the vote being canvassed in each city, village or township, the result is determined to be in favor of the incorporation, the city clerk in the case of cities, the village clerk in the case of villages, and the township clerk in the case of townships, each shall file with the secretary of state and with the county clerk of the county in which the city, village or township is located, a certified copy of the resolution of their legislative body indicating its desire to become a part of the authority, a certified copy of the notice of election at which the question was submitted to the electors, and a certified copy of the canvassing resolution showing that the incorporation proposition was approved by a majority of the electors voting thereon, which resolution shall also give the number of votes cast on the proposition and the number cast for and against the same. From the date of the filing, the authority shall be deemed to be duly and legally incorporated under the provisions of this act if the total current state equalized valuation of such units of government so filing shall be \$200,000,000,000 or more. If the electors of 1 or more cities, villages or townships vote against becoming a part of the authority, such fact shall not defeat the incorporation if the incorporation was approved by the electors of any 2 or more remaining cities, villages or townships having a current state equalized valuation of \$200,000,000.000 or more; but the remaining cities, villages or townships shall constitute the boundaries of the authority, and a part thereof, if the legislative bodies of the remaining units of government, by resolution, approve the incorporation. Copies of the resolutions shall be filed in the office of the secretary of state and the county clerk of the county in which the units of government are situated. The incorporated authority shall then be known and designated as "The charter water authority of the (name cities, villages and townships becoming a part , Michigan" unless the governthereof), county (or counties) of ing body of the authority adopts a distinctive name for the authority, and files it in the office of the secretary of state.

121.6 Board of commissioners; voting strength, term. [M.S.A. 5.2533(36)]

Sec. 6. The incorporated authority shall be directed and governed by a board of commissioners appointed as herein provided. The legislative body of each city, village or township constituting a part of the authority, within 30 days after the incorporation of the authority, shall elect a commissioner as its representative on the board of commissioners The commissioner from each city, village or township shall have 1 vote. In determining the voting strength of a commissioner from a township in which is located a village or villages which are also constituent members of the authority, there shall be subtracted from the state equalized valuation of such township that proportion of such state equalized valuation of that township which the total assessed valuation of such member village or villages bears to the total assessed valuation of such township as a whole, as determined by the township board of review. In determining the voting strength of a commissioner from a village. such village shall be deemed to have a state equalized valuation equal to that proportion of the state equalized valuation of the whole township in which such village is located as the assessed valuation of such village, as determined by the township board of review, bears to the assessed valuation of the whole township in which such village is located, as last determined by the township board of review. In addition to such 1 vote, the commissioner from each city, village or township having a state equalized valuation in excess of \$40,000,000.00 shall have 1 cumulative and additional vote for each \$40,000,000.00 or any part thereof of state equalized valuation for the city, village or township he représents in excess of \$40,000,000.00. Each commissioner's voting strength shall be determined initially as of the date of incorporation of the authority, and shall be redetermined every 5 years thereafter. The state equalized valuation for each city, village or township shall be determined initially and redetermined by the latest official figures applicable to that city, village or township. The commissioners shall serve for 4 years or until their successors are appointed.

121.7 Same; first meeting, officers, employees, bylaws, office. [M.S.A. 5.2533(37)]

Sec. 7. The board of commissioners shall hold their first meeting within 1 month after their selection, on the call of the mayor of the most populous city of the authority, or if no city is a part of the authority, the mayor or president of the most populous village, or if no city or village is a part of the authority, the supervisor of the most populous township, as determined by the last federal decennial census. At the first meeting the board of commissioners shall elect a chairman and a vice-chairman, who shall be members of the board of commissioners, and a secretary and a treasurer, who need not be members. The board shall select and employ such other officers and employees and engage such engineering legal and other professional services as it deems necessary to effectuate its purposes and fix the compensation therefor. The board may adopt such rules of procedure and bylaws as it deems advisable and shall designate an office or location as its principal place of business.

121.8 Same; record of proceedings; accounts, audit, bond. [M.S.A. 5.2533(38)]

Sec. 8. The board of commissioners shall keep a written record of every session of the board, which record shall be public. It shall also provide for a system of accounts to conform to any uniform system required by law, and for the auditing at least once yearly of the accounts of the treasurer by a competent certified public accountant, and the balance sheet showing the financial condition of the authority as of the date of the audit shall be published in 1 or more newspapers which have a general circulation in the governmental units comprising the authority within 30 days after such audit is received by the board of commissioners. The board shall require of the treasurer a suitable bond by a responsible bonding company, to be paid for by the board.

121.9 Rates and charges; revision; revenues, priority of use. [M.S.A. 5.2533(39)]

Sec. 9. The board of commissioners, by resolution adopted by a 2/3 majority of the total authorized votes, prior to the acquisition or construction of a water supply and transmission system, and prior to the issuance of any bonds for such purposes, shall establish an initial schedule of rates and charges for the use of water to be furnished by the system to the governmental units within the corporate limits of the authority. The rates and charges may be fixed and revised from time to time by the board of commissioners within the limitations and conditions provided in the terms of any contract for the sale of water entered into between the authority and the governmental units within the corporate limits of the authority. Moneys derived from the collection of such rates and charges shall be applied and used by the authority in manner following, and in the following priority:

(1) To provide for the payment during each fiscal year of all current expenses of administration, operation and maintenance as may be necessary to preserve the system in

good repair and working order.

(2) In the discretion of the board of commissioners, there may be set aside during each fiscal year moneys to provide a reserve fund for replacements or major repairs and improvements not anticipated or considered to be a part of current expenses of administration, operation or maintenance.

(3) Any balance remaining at the end of any fiscal year shall be deposited into the debt retirement fund to be established by the board of commissioners pursuant to the provisions of section 17 of this act and used only for the purpose of paying any bonded indebtedness incurred in accordance with the authorization contained in this act.

121.10 Same; duration of contract with governmental unit. [M.S.A. 5.2533(40)]

Sec. 10. After the establishment of initial rates and charges as required by section 9 of this act, the authority and the governmental units within its corporate limits may contract for the sale and purchase of water from any such system for a period of not exceeding 50 years.

121.11 Budget, submission, hearing, adoption. [M.S.A. 5.2533(41)]

Sec. 11. On or before February 1 of each year, the board of commissioners shall prepare and submit to the governing bodies of each governmental unit comprising the authority, a proposed budget covering its anticipated expenses of administration, operation and maintenance, plus any reserve therefor to be established, for the next succeeding fiscal year. The budget shall include a statement showing the amounts necessary to retire all principal and interest on any bonds of the authority maturing during the next ensuing fiscal year, the anticipated revenues to be derived from rates and charges during the fiscal year, and the proposed tax levy to provide funds for meeting its requirements for operation, administration, maintenance or debt retirement if necessary. Any governmental unit within the corporate limits of the authority shall be entitled to a hearing before the budget is finally adopted, upon request being made to the authority within 30 days after receipt of a copy of the proposed budget. The annual budget shall be finally adopted by the authority on or before Iune 1 of each year.

121.12 Fiscal year. [M.S.A. 5.2533(42)]

Sec. 12. The fiscal year of the authority shall commence on July 1 of each year and end on June 30 of each year, unless the board of commissioners, by resolution, establishes a different fiscal year.

121.13 Bonds; maximum; authorizing resolution, contents. [M.S.A. 5.2533(43)]

Sec. 13. For the purpose of constructing, acquiring, improving, enlarging or extending a water supply and transmission system, including the payment of engineering, legal and financing expenses in connection therewith, and after the establishment of the initial rates and the execution of contracts for the sale and purchase of water with each governmental unit within the corporate limits of the authority as provided in sections 9 and 10 of this act, the authority may borrow money and issue its negotiable general obligation bonds for such purpose. The total principal amount of the bonds, at no time, shall exceed 5% of the total state equalized valuation of the combination of governmental units comprising the authority. The bonds shall be issued only after the adoption of a resolution by a 2/3 majority of the total authorized vote. The resolution shall briefly describe the water supply and transmission system to be constructed, acquired, improved or extended. the estimated cost thereof, shall state that contracts for the sale and purchase of water have been entered into with all the governmental units comprising the authority, that initial rates have been established for the sale of water by the authority to the governmental units, the date, maturities and maximum interest rate at which the bonds shall be sold, prior redemption features of the bonds, if any, and an irrevocable pledge on the part of the authority to levy annually the taxes necessary to provide sufficient funds for the payment of principal and interest on the bonds as they mature in the manner authorized by this act. The resolution shall specify such other details and matters as may be deemed necessary or advisable to provide for the prompt and orderly retirement of the bonds and the interest thereon at maturity. Interest for the period of construction of any water supply and transmission system and for I year thereafter, and operating expenses of the authority during the construction period and not to exceed 6 months thereafter, may be capitalized and included as a part of any bond issue.

121.14 Same; terms, interest, redemption, payment. [M.S.A. 5.2533(44)]

Sec. 14. Bonds issued by any authority shall be serial bonds with annual maturities, the aggregate of which shall not exceed 40 years, the first of which shall fall due not more than 5 years from the date of issuance, and no principal maturity after 5 years from date of issuance shall be less than 1/5 of the amount of any subsequent principal maturity. The bonds shall bear interest at a rate not exceeding 6% per annum, may be made redeemable prior to maturity on such terms and conditions, and with such premium as shall be provided by the resolution authorizing their issuance, and may be made registrable as to principal only under such terms and conditions as may be determined in the resolution. The principal of and interest upon bonds issued under the provisions of this act shall be payable from the proceeds of the collection of taxes which the authority is authorized to levy in accordance with the provisions of section 16 of this act.

121.14a Same; resolution, publication, referendum, petition, special election. [M.S.A. 5.2533(44a)]

14a. The resolution authorizing the issuance of bonds by the authority shall be published in full in a newspaper of general circulation within the corporate limits of the authority within 1 week after its adoption. If, within 30 days from the publication of the resolution, a petition signed by not less than 2 per centum of the registered electors who have property assessed for taxation in any part of the authority, or the lawful husband or wife of such persons, shall have been filed with the secretary of the authority, requesting a referendum upon the question of the issuance of such bonds, then the same shall not be issued until approved by the vote of a majority of such qualified electors residing within the corporate limits of the authority voting thereon. In the event such a petition for a referendum is filed with the secretary of the authority within the time above limited, the board of commissioners of the authority, by resolution, shall establish the date of such election which shall be not less than 60 days nor more than 90 days after the adoption of such resolution. The secretary of the authority shall, within 3 days after the adoption of such resolution, transmit a certified copy thereof to the governing body of each city, village or township which is a part of the authority. The governing body of each such city, village or township shall forthwith provide for an election in accordance with the resolution so passed, in which the question of issuing such bonds shall be submitted. The ballots for use in such election shall be provided by the authority and the elections shall be conducted in the same manner as all special elections are required to be conducted in the respective cities, villages and townships except that wherever any part or all of a village belonging to such authority is located in a township which is not a member of the authority, the village shall conduct such special election. The governing bodies of such cities, villages and townships which are a part of the authority shall act as a board of canvassers and shall certify the results of such election to the board of commissioners of the authority within 5 days after the date of the election. The board of commissioners of the authority within 5 days after the date of election shall compile and tabulate the vote as received from the respective cities, villages and townships and certify the result of such election by resolution upon the records of the authority and a majority of the total valid votes cast at such an election voting "yes" on the question submitted shall constitute an approval.

121.15 Same; issuance, approval, sale, refunding. [M.S.A. 5.2533(45)]

Sec. 15. Bonds issued by any authority under the provisions of this act shall be issued subject to the prior permission of the municipal finance commission or the successor state agency or commission having jurisdiction over the issuance of municipal bonds, and shall be sold at public sale on at least 7 days' notice by publication in accordance with the requirements of section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended, being section 133.2 of the Compiled Laws of 1948. Refunding bonds may be issued by the authority under the conditions permitting such refunding and subject to the applicable provisions therefor specified in Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

121.16 Taxes; rates, assessment, levy, collection, subjects. [M.S.A. 5.2533(46)]

Sec. 16. The authority shall levy each year a sufficient tax, taking into account the probable delinquency in tax collections, to pay the principal and interest on all bonds lawfully issued by the authority under the provisions of this act, maturing prior to the next tax collection period. If on July 1 of any year, there are funds on hand in the debt retirement fund earmarked for the payment of principal and interest on the bonds, then the annual tax levy shall be in such amount as will produce sufficient funds, taking into account the earmarked funds on hand, to pay the principal and interest on the bonds maturing prior to the next tax collection period. The tax for the purpose of paying the bonded indebtedness shall be unlimited as to rate or amount. Such tax rate shall be uniform for all territory comprising the authority. The tax rate for all cities which are members of the authority shall be based and assessed upon the current state equalized valuation of such

cities. The tax rate for all villages which are members of the authority shall be based and assessed upon that portion of the state equalized valuation of the whole township in which such village is located as the assessed valuation of such village bears to the assessed valuation of the whole township in which such village is located, as determined by the township board of review. The tax rate for all townships which are members of the authority shall be based and assessed upon the current state equalized valuation of the town-hip, but in those townships in which there are 1 or more villages which are also members of the authority the tax rate shall be based and assessed on the state equalized valuation of such township less the proportion of the state equalized valuation of such township which the total assessed valuation of such village or villages, as determined by the township board of review, bears to the total assessed valuation of such township as a whole, as determined by the township board of review. In determining the tax rate, the authority shall use the state equalized valuation determined and fixed as of July 1 of each year. On or before August 1 of each year, the authority, by its board of commissioners, shall certify to the tax collecting officers of each city and township comprising the authority, the tax rate determined by it to be necessary for the above purposes, and the tax collecting officers shall include the tax rate as a separate item in the next county tax levied in the city or township. All such taxes shall be assessed, levied, collected and returned in the same manner as county taxes under the property tax laws of the state, shall have the same priority rights and bear the same interest and penalties as county taxes. In the levy and collection of such taxes, the tax collecting officials of the cities and townships comprising the authority, and the county treasurers in the event such taxes are returned delinquent, shall be deemed to be acting as agents for and on behalf of the authority. All moneys collected by any tax collecting officer from the tax levied under the provisions of this act shall be transmitted as collected to the authority and used by it solely for the payment of principal and interest on its bonds issued in accordance with the provisions of this act. Any village which is a part of the authority shall be considered a part of the township in which it is located for the purposes of this section, if the township is a part of the authority. If any village which is a part of the authority is located in a township which is not a part of the authority, the authority shall certify to the township treasurer of the township in which the village is located, the tax rate as above determined, and the taxes shall be levied and collected as a part of, and as an independent item in the county tax bills levied in the village. The subjects of taxation for the authority purposes shall be the same as for state, county and school purposes under the general law

121.17 Same; deposit in debt retirement fund depositary. [M.S.A. 5.2533(47)]

Sec. 17. The authority, at the time of the issuance of bonds, shall establish in a bank qualified to do business in the state a separate depositary account to be designated the debt retirement fund, which fund shall be kept separate from all other moneys of the authority, and shall be used only to pay the bonded indebtedness of the authority incurred in accordance with the authorization contained in this act. All moneys received by the authority from the taxes levied by it pursuant to the provisions of section 16 of this act shall be deposited into the fund as collected.

121.18 Same; administration expenses. [M.S.A. 5.2533(48)]

Sec. 18. The authority may levy in any year, in addition to the tax required for the payment of bonded indebtedness, a tax for the purpose of providing funds for administration expenses of the authority and such other purposes of the authority as may be determined to be necessary by the board of commissioners. The tax shall be uniform and shall in no event exceed ½ mill on the combined state equalized valuation for all governmental units comprising the authority, and shall be levied only after the adoption of a resolution therefor by unanimous vote of all the members of the board of commissioners of the authority. The tax shall be levied and collected in the same manner as taxes for the payment of bonded indebtedness are levied and collected under the provisions of section 16 of this act.

121.19 Same; payment by constituent municipality. [M.S.A. 5.2533(49)]

Sec. 19. Any city, township or village which is located in a township which is not a part of the authority, within 30 days after certification of the tax rate by the authority as required by section 16 of this act, in lieu of the levy and collection thereof, may pay to the authority the full amount of the tax as though fully collected, out of funds available for such purpose, in which event it shall not be obligated to include the tax rate as a part of the county tax bills as required by sections 16 and 18 of this act. Any such city, village or township may pay such moneys out of water rates and charges which it may charge users of water from its local distribution system, or from such revenues not earmarked for the payment of indebtedness by virtue of bonds issued under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, and any ordinance enacted pursuant to its provisions, or from such other moneys which may be lawfully used for such purposes.

121.20 Contract payments; powers of municipal legislative body. [M.S.A. 5.2533(50)]

Sec. 20. The legislative body of each city, village or township which is a part of the authority may raise by tax, pay from its general funds, or from its revenues derived from operation of its water system not earmarked or pledged for other purposes, any moneys required to be paid for water purchased from the authority by the terms of any contract between it and the authority pursuant to the provisions of section 10 of this act.

121.21 Authority; body corporate; charter, powers. [M.S.A. 5.2533(51)]

Sec. 21. The authority shall be a municipal corporation, and a public body corporate with power to sue and be sued in any court of this state. This act shall be considered to be its charter, and it shall possess all powers necessary to carry out the purposes of its incorporation and those incident thereto as expressed in this act. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

121.22 Same; acquisition of water supply and transmission system. condemnation. [M.S.A. 5.2533(52)]

Sec. 22. The authority may acquire property for a water supply and transmission system by purchase, construction, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute.

121.23 Change in municipal jurisdiction. [M.S.A. 5.2533(53)]

Sec. 23. No change in municipal jurisdiction over any territory within an authority shall affect in any manner the authority or its boundaries. If a new city is incorporated from a township in the authority, then the new city shall be deemed to be a part of the authority, and a constituent municipality thereof. No change in the jurisdiction over any territory in any city, village or township which has contracted to purchase water from the authority pursuant to the provisions of section 10 of this act, shall impair in any manner the obligations of the contract, but the same shall be carried out, insofar as such territory is concerned, by the authority and the municipality as shall have jurisdiction to furnish water to the territory.

121.24 Advancements to authority for administrative expenses. [M.S.A. 5.2533(54)]

Sec. 24. The legislative body of each municipality which is a part of the authority may advance or loan to the authority any moneys required for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications and cost estimates of a proposed water supply and transmission system. Any advances or loans may be included as a part of any bond issue by the authority under the provisions of this act, and repaid to the municipality upon the sale of the bonds.

121.25 Contracts for water to nonconstituent municipalities, duration. [M.S.A. 5.2533(55)]

Sec. 25. The authority and any municipality which is not a part thereof, may enter into a contract for the furnishing of water service from any water supply and transmission system owned or operated by the authority. The contract shall provide for reasonable charges or rates for the service furnished, which shall be not less than the rates charged to municipalities of the same classification which are a part of the authority. Any income derived from such contracts shall be applied and used by the authority in the same manner as provided in section 9 of this act. No such contract shall be for a period exceeding 40 years.

121.26 Joinder of municipality after incorporation of authority, procedure. [M.S.A. 5.2533(56)]

Sec. 26. (1) Any municipality which did not join in the incorporation of an authority may become a part thereof by:

(a) The adoption of a resolution by the legislative body of the municipality indicating its intent to become a part of the authority, a certified copy of which resolution shall be forwarded to the secretary of the board of commissioners of the authority;

(b) The adoption of a resolution by the board of commissioners of the authority approving the addition of the municipality to the authority as a part thereof and specifying the terms and conditions of admittance. The resolution shall require a 2/3 majority of the total authorized votes of the board of commissioners; and

(c) The submission of the question of joining the authority to a vote of the qualified electors of the municipality at any general or special election called for such purpose.

(2) The question submitted shall be in substantially the form provided in section 2 of this act, except the name of the incorporated authority may be expressed in the ballot. The proposition shall be deemed to have carried if a majority of the qualified electors in the municipality voting thereon vote in favor of the proposition.

(3) Proof of the foregoing requirements shall be filed with the secretary of state and the county clerk of the county in which the municipality is located. The municipality, from the date of such filing, shall be deemed a part of the authority and subject to the provisions of this act.

121.27 Additional powers. [M.S.A. 5.2533(57)]

Sec. 27. The powers herein granted shall be in addition to those granted by any charter or other statute.

121.28 Construction of act. [M.S.A. 5.2533(58)]

Sec. 28. The provisions of this act shall be liberally construed in the interest of the public health and welfare and the safety of persons and property within the authority incorporated under the provisions of this act.

121.29 Short title. [M.S.A. 5.2533(59)]

Sec. 29. This act shall be known and may be cited as the "charter water authority act".

LOCAL GOVERNMENTAL AFFAIRS

FURNISHING WATER

Act 5, 1870 (Ex. Ses.), p. 8; Imd. Eff. Aug. 4.

AN ACT to authorize the introduction of water into, and the construction or purchase of hydraulic works in the cities and villages in the state of Michigan.

The People of the State of Michigan enact

123.111 Water supply; borrowing power of municipality. [M.S.A. 5.2511]

Sec. 1. That it shall be lawful for any city or incorporated village in this state, to borrow any sum of money to be used exclusively for the purpose of purchasing grounds, rights, privileges, materials, and in making improvements connected with, and for the sole purpose of supplying such city or village, and the inhabitants thereof with water. Provided That the total sum borrowed and raised by tax by any such municipality the first year shall not exceed 10 per cent of the assessed valuation of such municipality, as contained in the last preceding assessment roll of the same; And provided, That no more than 5 per cent shall be borrowed during any 1 year thereafter, and that the rate of interest shall not exceed 10 per cent upon any indebtedness contracted under the provisions of this act.

<code>HISTORY:</code> Am. 1871, p. 27, Act 25, Imd. Eff. March 3;—C L 1871, 3347;—How. 3090;—C L 1897, 3416;—C L 1915, 3401;—C L 1929, 2421.

123.112 Bonds, issuance; payment principal, interest; referendum on borrowing. [M.S.A. 5.2512]

Sec. 2. The common council of any city, or the corporate authorities of any incorporated village, shall have the power to fix the time and place of payment of the principal and interest voted under the provisions of this act, and to issue the bonds or other evidence of indebtedness of such city or village: Provided, That it shall not be lawful for the common council of any city or the corporate authorities of any incorporated village, to borrow any portion of said sum of money, unless the question of borrowing the same shall have been first submitted to the electors of such city or village at its annual election, or at a special election called for that purpose by the common council of such city, or the corporate authorities of such village and a majority of the electors voting at such election voting therefor by ballot.

HISTORY: CL 1871, 3348; -How. 3091; -CL 1897, 3417; -CL 1915, 3402; -CL 1929, 2422.

123.113 Acquisition of rights of water company; resolution of council affecting bonds. [M.S.A. 5.2513]

Sec. 3. Any city or village which may have availed itself of existing provisions of law to become a stockholder in any water company may by an arrangement with the company in which it owns stock, and with the other stockholders thereof, by purchase acquire the entire rights of such water company: Provided, however, That in case such city or village shall have issued any bonds or evidences of indebtedness, in order to raise the money to pay for its stock in a water company, it shall not be permitted to perfect such arrangements until the common council of said city or the corporate authorities of said village shall, by a resolution to be entered in its minutes, undertake and promise, in consideration of such purchase to pay when due the principal and interest of all outstanding bonds issued by said city or village for the purpose aforesaid, which new promise and undertaking shall be deemed to be made to each and every person or corporation which is or may become the holder of such bonds or evidence of indebtedness.

HISTORY: CL 1871, 3349;-How. 3092;-CL 1897, 3418;-CL 1915, 3403;-CL 1929, 2423.

123.114 Management of waterworks; rates; regulations. [M.S.A. 5.2514]

Sec. 4. It shall be lawful for the common council of any city or the corporate authorities of any village which shall avail itself of the provisions of this act, by the passage of proper ordinances, to provide for the appointment of a commission, or board, the term of at least 1 member of which commission or board shall expire yearly, to take the charge and management of such water works in the manner and to the extent which shall be provided

in the ordinances of the city or village; and the common council of any city or the corporate authorities of any village, may by resolution or ordinance fix the rates for supplying water to the inhabitants thereof, regulate the manner of making connections, and the use of the water, which rules and regulations shall apply equally to all the inhabitants of such city or village.

HISTORY: CL 1871, 3350;- How. 3093;-CL 1897, 3419;-CL 1915, 3404;-CL 1929, 2424.

123.115 Act construed. [M.S.A. 5.2515]

Sec. 5 Nothing in this act shall be construed to affect the special provisions in the charter of any city or village, already authorizing the introduction of water into the same, and the construction of hydraulic works for the supplying of such city or village and the inhabitants thereof with water.

HISTORY: C.L. 1871, 3351; How. 3094; C.L. 1897, 3420; C.L. 1915, 3405; C.L. 1929, 2425.

123.116 Levy to pay principal and interest of bonds. [M.S.A. 5.2516]

Sec. 6. It shall be the duty of the common council of any city or the corporate authorities of any village availing itself of the provisions of this act, from time to time, as it may be necessary to levy and collect such sums of money as may be required to pay the principal or interest voted by such city or village, under section 1 of this act, or the principal and interest of any bonds or other evidence of indebtedness to pay which a new promise shall have been made in accordance with section 3 of this act.

HISTORY: CL 1871, 3352;—How. 3095;—CL 1897, 3421;—CL 1915, 3406; CL 1929, 2426.

123.117 Acquisition of property rights. [M.S.A. 5.2517]

Sec. 7. If for the purpose of constructing or operating any water-works, the commission or board appointed in pursuance of section 4 of this act shall require the land of any person, or corporation, or any right of way over, through or across such land, for the use of such water-works, and shall be unable to agree with the owner or owners or parties having estates or interest in such land or his or their authorized agent, for the purchase of such land or right of way, such commission or board shall have the right to acquire the title to such ground or the necessary right of way over, through or across the same in the manner hereinafter provided.

HISTORY: Add. 1872, p. 115, Act 64, Imd. Eff. Match 30;—How. 3096;—C L 1897, 3422;—C L 1915 3407;—C L 1929, 2427.

CONDEMNATION: For other provisions relating to the condemnation of private property for public purposes, see Compilers' § 213.1 et seq., and notes thereto.

123.118 Same; notice of proceedings, contents. [M.S.A. 5.2518]

Sec. 8. For the purpose of acquiring such title or right of way, such commission or board shall give notice to the claimant or owners of said land, or of any interest therein, that at a time and place therein mentioned proceedings will be taken for the purpose of acquiring such title or right of way, before some justice of the peace or other judicial officer residing in such city or village or in the township in which such lands are situate; and that said claimants or owners of said land or any interest therein, may appear before such officer at such time and place to have their claims and interests adjusted and the compensation to be paid by such city or village for such land or interest therein, fixed and determined, which said notice shall also contain a description of the lands to be taken, and the particular use or purposes for which such lands are desired.

HISTORY: Add. 1872, p. 115, Act 64, Imd. Eff. March 30;—How. 3097;—C.L. 1897, 3423;—C.L. 1915, 3408; C.L. 1929, 2428.

123.119 Notice, service; guardian ad litem. [M.S.A. 5.2519]

Sec. 9. The notice required to be given, as required in section 8, shall be served personally on such claimants or owners as can be found within this state, by delivering to them a true copy of such notice or leaving a true copy thereof at their residence, if within this state, with some person of suitable age and discretion at least 10 days before the time fixed in said notice for such hearing. And in case any of the said claimants or owners cannot be found after using due diligence for that purpose, and they have no known place of residence within this state, the commissioners shall, in such cases, cause such notice to be published for 4 successive weeks in 1 paper published at Detroit, and a like period in 1

paper published within the county where such lands are situate, should one be published therein, and in case the residence of such claimants, if without the state, can be ascertained, a copy of said notice shall be mailed to them, postage prepaid: Provided however, That if such owner or claimant is an infant or a person of unsound mind, such notice shall be served upon his or her guardian, if found within this state, and if not, then by publication as above provided: And provided further, That if such infant or person of unsound mind has no guardian, then said commissioners may make application, by petition, to the circuit court in chancery for said county, or to the probate judge of said county, for the appointment of a guardian and said court or judge shall upon such application appoint a special guardian.

HISTORY: Add. 1872, p. 115, Act 64, Imd. Eff. March 30;—How. 3098;—C.L. 1897, 3424; C.L. 1915 3409;—C.L. 1929, 2429.

123.120 Report to officer mentioned in notice, contents; jury, summoning, empaneling, duties, compensation; procedure; fees; adjournments.
[M.S.A. 5.2520]

Sec. 10. At least 5 days before the time fixed in such notice for such hearing, such commission or board shall present to the justice or other officer mentioned in such notice a report, setting forth a description of the lands in such notice, the necessity for using the same, and the particular use or purpose for which such lands are desired, and whether desired in fee or otherwise, that such commission or board have been unable to agree with the owner or person interested in such land, and the time and manner of giving such notice, and attach thereto a copy of such notice, which report shall be signed by the president or secretary, together with an affidavit of service or publication of such notice attached thereto. And thereupon it shall be the duty of such justice or other officer to issue a venire facias directed to the marshal or any constable of such city, village or township, commanding him to summon 12 disinterested freeholders of the county to appear as jurors before such officer at the time and place mentioned in such notice. And it shall be the duty of the marshal or constable to whom such venire is delivered to summon such jurors personally at least 24 hours before the time when they are by said venire required to appear, and to return the same on or before the day of such hearing with his doings thereon, and the names of the persons summoned and the time and manner of summoning them. If, for any reason any juror so summoned shall not appear and his attendance cannot be procured or if any juror or jurors appearing in obedience to such venire shall be found incompetent or unfit, in the discretion of such justice or other officer before whom the proceedings are had, to serve as such juror, or has any sufficient excuse for not so serving, said justice or other officer shall direct the marshal or constable to forthwith summon a sufficient number of disinterested freeholders of said county as talesmen to complete the number of 12 jurors, and such jury having been first duly sworn may examine the premises and shall proceed to ascertain and determine the necessity for taking or using the land described in the said notice, and to fix and determine the title or rights which said city or village shall have to such lands. And such jury shall have full power to hear, examine, and determine of and concerning the rights, interest, and title of all and any of the claimants of said land, and also to assess the value thereof and fix the compensation, after deducting the benefits which such claimant or owners may derive therefrom, to be paid by such city or village therefor as fully and efficiently as if all the power necessary for the purposes aforesaid were herein specifically enumerated in this act, and the decision of such jury shall be final and conclusive in the premises, unless an appeal from their decision shall be taken as provided in this act; and their verdict when determined on, shall be reduced to writing and subscribed by each of said jurors, and said jury shall thereupon be discharged, Provided, That in cases where 2 or more claimants claim conflicting titles or interests in said lands the amount awarded by the jury shall be paid into the circuit court of the county in which such lands are situate and the same shall afterwards be paid to the party or parties establishing their title thereto in proportion to their interests in said lands: And provided further, That said city or village and said claimant or claimants, in cases of more than 1 claimant, shall have the right to a challenge in writing, to the array, for cause, and 2 peremptory challenges, besides the right of challenge to the polls for cause, and such officer shall supply the place thereof by talesmen summoned as aforesaid. Said jurors shall each be allowed 2 dollars per day for their

services, and mileage as in other cases, which shall be paid by such city or village. And such justice or other officer shall receive the same fees as are allowed for like services in justice courts and for the purpose of summoning and empaneling the jury, compelling the attendance of witnesses, or during adjournment and all other proceedings necessary for successfully carrying out the foregoing provision. The officer before whom the proceedings are had shall have and exercise all the powers usually exercised by justices of the peace in the conduct and trial of suits at law: Provided however, That there shall not be more than 2 adjournments and no adjournment shall be for a period exceeding 10 days.

HISTORY: Add. 1872, p. 116, Act 64, Imd. Eff. March 30;—How. 3099;—CL 1897, 3425;—CL 1915, 3410;—CL 1929, 2430.

123.121 Appeal procedure; bond. [M.S.A. 5.2521]

Sec. 11. Either party to the proceedings who shall consider himself aggrieved by the determination of the jury as to the amount of damages so awarded, may appeal therefrom to the circuit court of the same county in the manner hereinafter provided. The party desiring to appeal, his agent or attorney, shall within 5 days after the final determination of the jury, make and file with the officer before whom the proceedings were had, an affidavit that such determination is not in accordance with the rights of the party as the deponent verily believes, and showing the interest which the party claiming an appeal has or claims to have in the premises. And the party so appealing shall, within the same time. execute and deliver to such officer a bond, with 2 or more sufficient sureties to be approved by such officer in writing indorsed on said bond, in a penalty to be fixed by such justice or other officer, and not less than 100 dollars, conditioned that the appellant shall prosecute his said appeal with all due diligence to a decision in the circuit court, and if the determination of the jury is affirmed or if the appeal is dismissed or discontinued that such appellant will pay all costs that may be adjudged against him or them by such circuit court. Within 5 days after the filing of such bond and affidavit, the officer before whom the proceedings were had shall make a duplicate of the return which he is required by this act to file with the clerk of the common council of the city or corporate authorities of the village, as the case may be, and attach to such duplicate the bond and affidavit, and file the same with the clerk of such circuit court; and for making and filing such duplicate, such officer shall be entitled to a fee of 3 dollars, to be paid in the first instance by the party appealing. Upon the filing of such duplicate return as aforesaid the same proceedings shall be thereupon had as in other appeal cases from justice's court. And such case shall be determined with all convenient speed, and either party may remove said cause to the supreme court as in other

HISTORY: Add. 1872, p. 118, Act 64, Imd. Eff. March 30;—How. 3100;—C L 1897, 3426;—C L 1915, 3411;—C L 1929, 2431.

123.122 Return of proceedings, filing with clerk; evidence. [M.S.A. 5.2522]

Sec. 12. The officer before whom the proceedings were had, shall within 10 days after the close of the proceedings before him, in case there is no appeal make a return of all such proceedings and attach thereto the report filed with him by the commission or board, and the verdict of the jury and deposit the same with the clerk of the common council of the city, or corporate authority of the village for whose benefit the proceedings were had, who shall file and preserve the same as part of the records of his office; and such return, or a certified copy of the same shall in all courts and places be conclusive evidence of the truth of the matters therein contained.

HISTORY: Add. 1872, p. 119, Act 64, Imd. Eff. March 30;—How. 3101;—C L 1897, 3427;—C L 1915, 3412;—C L 1929, 2432.

123.123 Amount awarded, provisions for payment. [M.S.A. 5.2523]

Sec. 13. The common council of the city or the corporate authority of the village, as the case may be shall, immediately after the filing of such return, if no appeal is taken, and immediately after the determination of the circuit court, in cases where an appeal is taken, make provision to pay or cause to be paid to the person or persons entitled thereto, the amount awarded to him or them by the said jury or by the circuit court in cases where an appeal has been had.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3102;—CL 1897, 3428;—CL 1915, 3413;—CL 1929, 2433.

123.124 Recording of copy of proceedings with register of deeds. [M.S.A. 5.2524]

Sec. 14. It shall be the duty of the recorder or clerk of such city or village, upon the filing of such papers and proceedings with him by said justice, in case there is no appeal, and of the clerk of the circuit court in case of an appeal, upon the final determination thereof, to make a certified copy of all the papers and proceedings filed with him, and in said cause, under the seal of said court, or under the corporate seal of said city or village as the case may be, and deliver the same to the register of deeds of the county, who shall record the same in the record of deeds kept in his office, and who shall receive 10 cents per folio for recording the same.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3103;—C L 1897, 3429;—C L 1915, 3414;—C L 1929, 2434.

123.125 Title vested in municipality; right of entry; user. [M.S.A. 5.2525]

Sec. 15. In all cases where the fee to such land is awarded to such city or village, the title thereto shall vest in, and become absolute to said city or village, free and clear from all incumbrances and adverse titles or claims of any kind or nature whatsoever, upon payment of the sum or sums awarded, or the tender thereof as provided in section 13 of this act. And in all cases where such fee is not awarded, then upon the payment or tender of the sum or sums awarded, as aforesaid, the said city or village and said commission or board may enter upon such land, take possession thereof, construct their works, lay pipes and repair the same and do all other acts necessary for the proper care and maintenance of such works so long as the same shall be used for the purposes contemplated in this act.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3104;—C.L. 1897, 3430;—C.L. 1915, 3415;—C.L. 1929, 2435.

123.126 Construction, operation, maintenance of works; rights pending appeal. [M.S.A. 5.2526]

Sec. 16. The common council of any city, or the common council or board of trustees of any village may, by ordinance, empower and authorize such commission or board to construct, operate, and maintain the necessary works contemplated in this act, and said commission or board shall have power and the right to enter upon any land for the purpose of examining and ascertaining whether the same is suitable or necessary for such purposes, and cause surveys of the same to be made, without being liable to the owners or claimants thereof for any damages occasioned thereby, and upon said land being condemned and payment or tender made as provided in section 13, the said commission or board may immediately enter upon, take possession of such lands, and commence the erection and construction of such works, lay pipes, and do any other act they may consider necessary. under the power herein conferred, or conferred upon them by such ordinance; and no appeal taken under the provisions of this act shall operate or stay their proceedings, nor shall they during the pendency of such appeal, in any manner, or by any court, be restrained from proceeding with the construction of such works, or from laying pipes: Provided. That the amount awarded to such claimant, being the appellant or appellee in such appeal case, be by said commission or board, deposited with the treasurer of such city or village payable to the order of such claimant.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3105;—C.L. 1897, 3431;—C.L. 1915, 3416;—C.L. 1929, 2436.

123.127 Use of highways, limitation. [M.S.A. 5.2527]

Sec. 17. If in the opinion of such commission or board, it shall be advisable or necessary to use any public highway for the purpose of laying the pipes connected with such waterworks, or for any other purpose necessary for the construction and maintaining of such water-works, such board or commission may at any time use such highway or any portion of the same for such purpose: Provided however, such use shall not prevent the free use of such highway by the public.

HISTORY: Add. 1872, p. 121, Act 64, Imd. Eff. March 30:—How. 3106:—C.L. 1897, 3432:—C.L. 1915, 3417;—C.L. 1929, 2437.

123.128 Juror, incompetency on account of interest. [M.S.A. 5.2528]

Sec. 18. No freeholder of such city, village, or township, in which or through which such water-works may be constructed or pipes laid, shall be deemed incompetent as a juror

on account of his interest in the event of such proceedings: Provided, Such interest be such only as he has in common with the inhabitants of such city, village, or township.

HISTORY: Add. 1872, p. 121, Act 64, Imd. Eff. March 30;—How. 3107; C.L. 1897, 3433;—C.L. 1915, 3418;—C.L. 1929, 2438.

123.129 Injury to waterworks; penalty. [M.S.A. 5.2529]

Sec. 19. Any person wilfully interfering with or injuring such water-works or pipes, shall be deemed guilty of a misdemeanor; and shall, on conviction thereof, be punished by a fine of not over 100 dollars, or imprisonment in the county jail not over 60 days or both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1872, p. 122, Act 64, Imd. Eff. March 30;—How. 3108;—C.L. 1897, 3434;—C.L. 1915, 3419;—C.L. 1929, 2439.

123.130 Scope. [M.S.A. 5.2530]

Sec. 20. This act as amended shall apply to all cities and villages in this state.

HISTORY: Add. 1872, p. 122, Act 64, Imd. Eff. March 30;—How. 3109;—C L 1897, 3435;—C L 1915, 3420;—C L 1929, 2440.

Act 34, 1917, p. 59; Imd. Eff. April 5.

AN ACT to authorize municipal corporations having authority by law to furnish water outside their territorial limits, to sell water to other municipal corporations and contract regarding such sale; to contract with individuals, firms, or corporations regarding the construction of water mains, and the sale of water in such outside territory; to construct water mains through the highways outside their territorial limits, with the consent of the proper local authorities; to furnish water to individual consumers, fix rates thereof, and enforce collection thereof.

The People of the State of Michigan enact:

123.141 Sale of water; authority to contract with cities, villages or townships; rates. [M.S.A. 5.2581]

Sec. 1. Municipal corporations having authority by law to sell water outside their territorial limits, hereinafter referred to as corporations, may contract for such sale with cities, villages or townships having authority to provide a water supply for their inhabitants, but the price charged shall not be less than nor more than double that paid by consumers within their own territory. The price charged may be more than double that paid by consumers within their own territory if the water is delivered to a city, village or township lying outside the county within which the corporations are situated, and lying more than 10 miles beyond the territorial limits of the corporations. Any price charged that is more than double shall bear a reasonable relationship to the service rendered.

HISTORY: C L 1929, 2445; Am. 1957, p. 58, Act 53, Imd. Eff. May 17

123.142 Same; authority to contract with persons; construction of mains, payment. $[M.S.A.\ 5.2582]$

Sec. 2. Such corporations may contract with persons, natural or artificial, for the furnishing of water in townships, villages and cities and may construct and maintain water mains through the public highways thereof, with the consent of the proper local authorities having jurisdiction over such highways. Such mains shall in all cases be the property of the corporation. Such contracts may specify such terms of payment for such mains as shall be just and equitable in the judgment of the corporation, and may in its discretion provide for a rebate of a just proportion of the cost thereof to the persons originally paying the same, whenever additional connections are made and additional service rendered therefrom.

HISTORY: C L 1929, 2446.

123.143 Same; rights, powers, when contract with persons. [M.S.A. 5.2583]

Sec. 3. Where water is sold to purchasers other than cities and villages in such outside territory, such corporations shall exercise all the powers and have all the rights and remedies in connection with such water system in such outside territory, the sale, and delivery of water therefrom, the fixing of water rates and the collection thereof, and all other matters incident to its operation which they possess by law within their own territorial limits.

HISTORY: CL 1929, 2447.

123.144 Enforcement of contracts; prerequisites. [M.S.A. 5.2584]

Sec. 4. No contract relating to water service in such outside territory except in cases provided for in section 1 hereof, shall be enforceable against such corporation until the consent of the proper local authorities to the construction and maintenance of water mains in the highways of such territory has been obtained, and the burden of securing such consent shall not be upon such corporation.

HISTORY: CL 1929, 2448.

Act 130, 1945; p. 135; Imd. Eff. April 27.

AN ACT to authorize cities to extend and improve their municipally owned water systems through the acquisition and operation of a joint source of water supply, to finance the cost thereof through the issuance of water revenue bonds; providing for methods for the operation of such joint source of water; authorizing the purchase and condemnation of necessary property; and providing the procedure for such acquisition and financing.

The People of the State of Michigan enact

123.151 Water supply; joint source; bonds; agreements; expense. [M.S.A. 5.2532(1)]

Sec. 1. Whenever 2 or more cities in Michigan determine to extend and improve their municipally owned water systems through the acquisition of an additional source of water supply consisting of a water supply line from one of the great lakes, bays thereof, and connecting waters between, together with related pumping station or stations, intake, meters, valves, rights of way, revistate and appurtenant apparatus and equipment (all of which are hereinafter referred to as the "source of supply"), such cities may jointly acquire, own and operate such source of supply, or any part thereof, and each such city may finance all or part of its agreed share of the cost thereof through the issuance of its water revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as such act now exists or may hereafter be amended. The governing bodies of such cities are hereby empowered to enter into such agreements for the acquisition, operation, control, management and improvement of such source of supply (any which agreement may run for a term of years) as they may in their discretion see fit, including, but without limitation, agreements with each other, with water customers and with any board, agency or commission in which may be imposed the operation of the source of supply. Such agreements may provide for and fix the membership, powers and duties of a joint board, agency or commission to operate the source of supply, in which event the governing bodies may delegate to such board, agency or commission such of their powers with respect to the operation of the source of supply as they may see fit. Such board, agency or commission is empowered to enter into such agreements with said cities and with water consumers, including other cities, villages and public corporations, for the sale of water thereto and with respect to the operation of the source of supply, as may be consistent with the provisions of the agreements creating such board, agency or commission and as it may consider advantageous. The expense of the operation, maintenance, management, control and improvement of the source of supply may be paid either through the sale of water by the operating board to the cities and other customers, or by contributions to be made by the respective cities, or both, all as may be provided in the agreements between the cities, as originally entered into or as modified and supplemented from time to time.

NOTE: Act 94 of 1933, above referred to, is Compilers' \$ \$ 141.101-141.136.

123.152 Cities having outstanding water revenue bonds. [M.S.A. 5.2532(2)]

Sec. 2. If any city issuing bonds hereunder shall then have outstanding other water revenue bonds which constitute a prior lien on the revenues of the city's water system, bonds may be issued hereunder in such manner as to be subordinate to the outstanding bonds.

123.153 Acquisition of property; construction contracts. [M.S.A. 5.2532(3)]

Sec. 3. Such cities shall have authority in their joint names to purchase and condemn property necessary for such source of supply, and for such purpose may bring proceedings under Act No. 149 of the Public Acts of 1911, as amended, or under any other general law of the state applicable to the condemnation of property for city purposes. Contracts for the construction of such source of supply may either be entered into individually by such cities, or in whole or in part by joint contract or contracts to which all or any of the cities are parties.

NOTE: Act 149 of 1911, above referred to, is Compilers' § § 213.21-213.41.

123.154 Sale or delivery outside of corporate limits. [M.S.A. 5.2532(4)]

Sec. 4. Any city taking advantage of the provisions of this act may sell and deliver water outside of its corporate limits in such amount as may be determined by its legislative body, as provided by section 23, article VIII of the constitution of Michigan, as amended in 1944.

123.155 Certain limitations and procedural requirements removed. [M.S.A. 5.2532(5)]

Sec. 5. Cities may acquire a source of water supply under this act and may enter into contracts therefor and agreements with respect thereto and may issue their revenue bonds as provided herein, without regard to any limitations or procedural requirements which may be contained in any other laws (except Act No. 94 of the Public Acts of 1933) or in the charters of said cities. Except as herein expressly otherwise provided, the provisions of said Act No. 94 of the Public Acts of 1933, as now existing or hereafter amended, shall be applicable in all respects to the issuance of the revenue bonds and the rights and remedies of the holders thereof, and except as therein provided, no election need be held as a condition to the carrying out of any of the powers herein granted.

NOTE: Act 94 of 1933, above referred to, is Compilers' § § 141.101-141.136

Act 178, 1939, p. 342; Imd. Eff. June 8.

AN ACT to provide for the collection of water rates, assessments, charges or rentals for water, and to provide a lien for water furnished by municipalities as herein defined.

The People of the State of Michigan enact:

123.161 Definitions. [M.S.A. 5.2531(1)]

Sec. 1. (a) The word "municipality" as used in this act is hereby defined to be any county, city, township, village or metropolitan district.

(b) The word "person" as used in this act is hereby defined to be any person, firm, partnership, or copartnership or corporation which is the owner or occupant of any house or other building or any premises, lot or lots, or parcel or parcels of land.

123.162 Municipal water lien; creation; accrual. [M.S.A. 5.2531(2)]

Sec. 2. Any municipality which has heretofore or may hereafter operate a water distribution system, for the purpose of supplying water to the inhabitants thereof, shall have as security for the collection of any water rates, or any assessments, charges or rentals

due or to become due for the use or consumption of water supplied to any house or other building or any premises, lot or lots, or parcel or parcels of land, a lien upon such house or other building and upon the premises or lot, or lots, or parcel or parcels upon which such house or other building shall be situated or to which such water was supplied. Such lien shall become effective immediately upon the distribution of the water to the premises or property supplied as aforesaid but shall not be enforceable for more than 3 years thereafter.

123.163 Same; enforcement; inapplicable in absence of ordinance. [M.S.A. 5.2531(3)]

Sec. 3. The lien created herein may be enforced by any such municipality in the manner prescribed in the charter of any such municipality, by the general laws of the state providing for the enforcement of tax liens or by ordinance duly passed by the governing body of the municipality. The provisions of this act shall apply only to municipalities in which a lien on real property for water assessments is now or shall hereafter be provided for by ordinance in accordance with the charter provisions of such municipality.

123.164 Same; notice, records constitute. [M.S.A. 5.2531(4)]

Sec. 4. The official records of the proper officer, board, commission or department of any such municipality having charge of the water distribution system shall constitute notice of the pendency of said lien.

123.165 Same; priority; affidavit, notice of termination of lease. [M.S.A. 5.2531(5)]

Sec. 5. The lien hereinbefore created shall from and after the passage of this act have priority over all other liens except taxes or special assessments whether or not such other liens accrued or were recorded prior to the accrual of the water lien herein created: Provided, however, That the provisions of this act shall not apply in any instance where a lease has been legally executed, containing a provision that the lessor shall not be liable for payment of water bills as to any such bills accuring subsequent to the filing of the affidavit hereinafter provided for: Provided further, That an affidavit with respect to the execution of such a lease containing the expiration thereof shall be filed with the board commission or other official in charge of the water works system, and 20 days notice shall be given by the lessor of any cancellation, change in or termination of the lease.

123.166 Discontinuance of service; institution of suit; no effect upon lien. [M.S.A. 5.2531(6)]

Sec. 6. Any municipality may discontinue water service from the premises against which the above lien has accrued whenever any person shall fail to pay the rates, assessments, charges or rentals herein referred to, or may institute suit for the collection of the same in any court of competent jurisdiction, but no attempt to collect such water rates, assessments, charges or rentals by any process, shall in any way invalidate or waive the lien, upon the premises.

123.167 Cumulative of other remedies; enabling act. [M.S.A. 5.2531(7)]

Sec. 7. This act shall not repeal any existing statutory charter or ordinance provisions providing for the assessment or collection of water rates, assessments, charges or rentals by any municipality, but shall be construed as an additional grant of power to any now prescribed by other statutory charter or ordinance provisions, or as a validating act to validate existing statutory or charter provisions creating liens herein provided for.

Sec. 8. (This was a severing clause section.) HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

ACQUISITION OF WATER AND SEWAGE SYSTEMS

Act 235, 1947, p. 353; Eff. Oct. 11.

AN ACT to regulate the ownership, extension, improvement and operation of public water and sewage disposal systems lying within 2 or more public corporations; to authorize the acquisition, by any public corporation, of that part of a public water or sewage disposal system lying within its boundaries; and to provide for the payment and security of revenue bonds issued for the construction, acquisition, extension and improvement of such systems.

The People of the State of Michigan enact:

123.331 Definition. [M.S.A. 5.2769(21)]

Sec. 1. The term "public corporation" as used herein shall be deemed to mean any county, metropolitan district, city, village or township in this state.

123.332 Water or sewage disposal system, acquisition of part on change of boundaries; referendum. [M.S.A. 5.2769(22)]

Sec. 2. When any public corporation shall have acquired any water or sewage disposal system, and, by subsequent incorporation, annexation or other change of boundaries, the land in which any part of such system lies shall have been placed within the boundaries of any other public corporation, the legislative or governing body of such other public corporation, if it desires to acquire that part of such system lying within its boundaries, shall submit the question of acquiring the same to vote of its qualified electors at a regular or special election.

123.333 Same; electors' approval; ordinance. [M.S.A. 5.2769(23)]

Sec. 3. If such proposition shall receive the favorable vote of 3.5 of the electors voting thereon, the legislative or governing body of such public corporation may adopt an ordinance providing for taking the ownership of that portion of such system lying within its boundaries on a specified date not less than 3 months from the adoption of said ordinance and cause a copy of said ordinance to be delivered within 10 days after its adoption to the clerk of each other public corporation within which any part of such system is located.

123.334 Same; joint board or commission, control; members, election. [M.S.A. 5.2769(24)]

Sec. 4. On or before the date specified in said ordinance, it shall be the duty of each of such public corporations, by its legislative or governing body, to elect 1 member of a joint board or commission. The members so elected shall elect 1 additional member, and the board so constituted shall have full control of the operation, extension and improvement of the system except as herein otherwise provided. The members of such board shall be elected annually in the same manner.

123.335 Same; alternative plans for division or operation. [M.S.A. 5.2769(25)]

Sec. 5. The several public corporations in which said system lies may, at any time before or after the date specified, enter into a contract providing, in lieu of the provisions of section 4 of this acf, for the division of such system, between the several public corporations, or for its operation as a single unit either by 1 of the public corporations as agent for all, or by a joint board of commissioners, 1 or more of whom shall be appointed by the legislative or governing body of each public corporation, and 1 or more shall be elected by such commissioners or by some disinterested agency.

123.336 Same; retirement of bonds; non-callable bonds; bond and interest redemption fund, payment priority. [M.S.A. 5.2769(26)]

Sec. 6. If there be outstanding revenue bonds issued for the acquisition, construction, extension or improvement of such system, such bonds may be retired either by the issue of joint refunding bonds on behalf of all the public corporations by concurrent ordinances of

their respective legislative or governing bodies, or by the apportionment of the out-tanding indebtedness among the several public corporations and assumption by each of its proportion thereof, or the issue by each of revenue refunding bonds or other obligations for its proportion. Unless otherwise provided by contract, the outstanding indebtedness, if such plan of refunding or assumption shall be adopted by either public corporation, and if there be non-callable bonds the owners of which do not consent to the surrender thereof for redemption, exchange or indersement, the plan may nevertheless be made effective if provision be made for the subordination of the refunding or assumed bonds to those not consenting and for a separate bond and interest redemption fund for such non-consenting bonds and the deposit therein of all money required by the ordinance under which the bonds were originally issued for the payment of the non-consenting bonds and reserves therefor, before any provision is made for the payment of the refunding or assumed bonds or reserves therefor.

123.337 Same; operation as a single unit; segregation and disposition of revenues, retirement of bonds. [M.S.A. 5.2769(27)]

Sec. 7. The integrity and unit of operation of the entire system as a single unit shall be preserved, and the segregation, safekeeping and disposition of its revenues as provided by the bond ordinance shall be continued until all outstanding bonds assumed by the revenues of the entire system shall have been retired by payment, redemption, assumption, or exchange, or provision made for their priority in accordance with section 6 of this act.

123.338 Same; operation as separate unit after retirement of bonds; collection and disposition of revenues. [M.S.A. 5.2769(28)]

Sec. 8. After all outstanding bonds have been paid or their priority secured as aforesaid, or have been retired by the issue of separate refunding bonds, by the several public corporations, jointly or severally, or by the assumption by each of its proportion thereof, any public corporation shall have the right to take over the ownership and operation of that part of the system lying within its boundaries and the collection and disposition of the revenues derived therefrom, subject to such conditions as will secure to all the subdivisions the connections, flowage rights and other facilities necessary to the operation of their respective systems.

123.339 Same; division between public corporations; proportionate share of expense or indebtedness. [M.S.A. 5.2769(29)]

Sec. 9. If any such system shall be divided, each public corporation shall provide for the operation of its portion and for the proper proportion of any expenses common to the entire system or separate systems, including payment of interest and principal of any unrefunded bonds of the original issue and for the payment of those expenses properly chargeable to its separate system including the payment of any bonds assumed or separately issued by it.

123.340 Same; operation by joint board or agency as unit; fund payments; depreciation, contingent and surplus funds. [M.S.A. 5.2769(30)]

Sec. 10. If the system shall be operated as a single unit, by a joint board or by 1 public corporation as agent for all, the operating board or agency shall provide for the payment of the necessary amounts into the operation and maintenance fund and into the bond and interest redemption fund for all bonds secured by the revenues of the entire system. The public corporations may, by contract, provide for the joint holding and management of other revenues or for their apportionment and deposit into separate bond and interest redemption funds for bonds, severally issued or assumed and into separate depreciation, contingent and surplus funds. Unless otherwise provided by such contract, such revenues shall be divided and paid quarterly or oftener into their respective treasuries and set apart by each into the appropriate funds. Unless otherwise provided by such contract, each public corporation shall have control of the construction of extensions and improve-

ments to the system within its boundaries, and shall be entitled to its proportion of the contingent and surplus funds for that purpose.

123.341 Same; apportionment of revenues, debts, properties; realty, purchase, use. | M.S.A. 5.2769(31) |

Sec. 11. Unless otherwise provided by contract, all revenues subject to apportionment and all outstanding indebtedness to be separately refunded or assumed by the several public corporations shall be divided in proportion to the net revenues received during the preceding fiscal year from services rendered by the system to property within the respective boundaries of such public corporations. All properties, including buildings, shops, garages, warehouses having a permanent location, shall upon appraisal be purchased by the public corporation within whose boundaries it is located for a percentage of the appraised value, applicable to the division of revenues as herein provided, but so far as necessary to the efficient operation of parts of the system lying within the boundaries of another public corporation, such property may continue to be used for that purpose for a charge to such other public corporation for its proportion of the expenses of operation and repairs. Any cash assets and intangible property shall be divided in the same proportion as herein provided for the net revenues.

123.342 Same; provisions applicable. [M.S.A. 5.2769(32)]

Sec. 12. Except as herein provided, all such systems shall be subject to the provisions of Act No. 94 of the Public Acts of 1933, as now or hereafter amended.

NOTE: Act 94, 1933, above referred to, is Compilers' \$ 141.101 et seq.

123.343 Same; cumulative effect of act; repeal of authority granted by other law. [M.S.A. 5.2769(33)]

Sec. 13. This act is cumulative authority for the exercise of the powers hereby granted, and does not repeal any existing authority granted by any other law.

123.344 Same; jointly acquired by public corporations under other statutes; contracts. [M.S.A. 5.2769(34)]

Sec. 14. Any public corporations which may, heretofore or hereafter, have jointly acquired the ownership or right to operate any water or sewage disposal system under any other statute may make any contract in regard to such system of the nature hereby authorized.

123.345 Same; contracts for division of systems existing or to be acquired. [M.S.A. 5.2769(35)]

Sec. 15. Any public corporation which may, heretofore or hereafter, have acquired a water or sewage disposal system extending beyond its own boundaries and any public corporation into whose territory any such system shall extend, may divide such system by a contract of the nature hereby authorized.

123.346 Validation of public corporation's vote or proceedings before effective date of act. [M.S.A. 5.2769(36)]

Sec. 16. Any vote or proceeding authorized hereby which may have been taken by any public corporation before the effective date of this act is hereby validated.

123.347 Act not deemed part of bondholders' contract; proceedings impairing contracts prohibited. [M.S.A. 5.2769(37)]

Sec. 17. This act shall not be deemed to be a part of the bond contract between a public corporation hereafter issuing any revenue bonds and the holders of such bonds, and no proceedings shall be taken hereunder which will impair the contract rights of such bondholders.

Act 82, 1955, p. 129; Imd. Eff. May 26.

AN ACT to provide for the acquirement by a city of the water supply system and/or sewage disposal system of a metropolitan district and to permit such a city to own, maintain, operate, improve, enlarge and extend such system or systems either within or without its limits, and to provide for the transfer to such city of the rights, obligations, property and functions of the metropolitan district.

The People of the State of Michigan enact:

123.351 Definitions. [M.S.A. 5.2534(1)]

Sec. 1. The words "water supply system and/or sewage disposal system" as herein used shall include either or both of such systems or a combined water supply and sewage disposal system.

The term "water supply system" shall include all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water and or the distribution of water.

The term "sewage disposal system" shall include all sanitary sewers, combined sanitary and storm sewers plants, works, instrumentalities and properties used or useful in connection with the collection, treatment and/or disposal of sewage and/or industrial wastes.

123,352 Purchase of water supply system and/or sewage disposal system by city from adjoining metropolitan district, contract, approval. [M.S.A. 5.2534(2)]

Sec. 2. Where any part of a city adjoins or is included in a metropolitan district organized under the provisions of Act No. 312 of the Public Acts of 1929, as amended, being sections 119.1 to 119.15, inclusive, of the Compiled Laws of 1948, such city may acquire by purchase the water supply system and/or sewage disposal system owned by such metropolitan district, and may own, maintain and operate the same either separately or as a part of its own water supply system and/or sewage disposal system, and may improve enlarge and extend the same. Any such metropolitan district is hereby empowered to sell its water supply system and/or sewage disposal system in accordance with the terms of this act. In the event that there are outstanding any bonds pledging the revenues of such metropolitan district system or systems, the city may assume the obligations of the metropolitan district on said bonds as a part or complete payment of the purchase price. The purchase agreement shall be evidenced by a contract between the city and metropolitan district, which contract shall be approved by a resolution adopted by the affirmative vote of 3/5 of the members elect of the respective governing bodies of such city, and metropolitan district. Such a contract shall contain those provisions which the parties thereto shall deem necessary to properly effect such sale and purchase and to define the rights and obligations of the parties. No such contract shall be entered into unless the disposal of the system or systems shall have been authorized by 3/5 of the electors of the metropolitan district voting thereon at a regular or special election and unless the acquirement of the system or systems shall have been authorized by 3/5 of the electors of the city voting thereon at a regular or special city election. Such an authorization shall be valid for the purpose of this act if made at an election held after the effective date of this act or within 1 year prior thereto. The foregoing requirements as to authorization by the electors shall supersede any charter requirements in that respect.

123.353 Succession of rights, obligations and property, contract. [M.S.A. 5.2534(3)]

Sec. 3. Any city acquiring a water supply system under the terms hereof shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying water, unless the purchase contract shall otherwise provide. Any city acquiring a sewage disposal system under the terms hereof shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying sewage disposal.

unless the purchase contract shall otherwise provide. Any city acquiring both a water supply system and a sewage disposal system, or a combined water supply and sewage disposal system, under the terms hereof, shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying water and sewage disposal, unless the purchase contract shall otherwise provide. The said rights, obligations and property shall include the right to transact a local business and the right to lay, maintain and operate water mains and/or sewers in the public highways, to the extent that such rights have been granted to the metropolitan district by any city village or township.

123.354 Services, continuance, extension. [M.S.A. 5.2534(4)]

Sec. 4. Any city acquiring a water supply system shall have the right to supply water, any city acquiring a sewage disposal system shall have the right to supply sewage disposal, and any city acquiring a combined water supply and sewage disposal system, shall have the right to supply water and sewage disposal, to the same area to which the metropolitan district had the right to furnish such services on the effective date of the purchase contract, and for the purpose of furnishing such services such city may improve, enlarge, extend, maintain and operate such system or systems within and/or without its corporate limits: Provided. That the city shall comply with any constitutional requirements in respect to the exercise outside its boundaries of any such rights which shall not have been constitutionally transferred to it pursuant to this act.

123.355 Readjustment of service rates; adoption of ordinances, property outside limits. [M.S.A. 5.2534(5)]

Sec. 5. A city so acquiring such a system may readjust the service rates provided the same do not impair the obligation of any bond contract. The legislative body of a city may, subject to constitutional and statutory limitations, adopt such ordinances and resolutions as may be necessary for the care, protection, preservation, management and control of any system acquired pursuant to this act, including that portion outside its city limits.

123.356 Construction of act. [M.S.A. 5.2534(6)]

Sec. 6. This act and any contract entered into pursuant thereto shall be liberally construed by the courts. The provisions of this act shall be construed as an additional grant of power to that prescribed by other statutory provisions or by any charter provisions.

JOINT WASTE AND WATER SYSTEMS-INTERSTATE

Act 76, 1965, p. 107; Imd. Eff. June 24.

AN ACT to authorize counties, townships, villages, cities and any other governmental unit or entity to construct or build water supply systems and waste disposal systems by agreements or contracts with governmental units, entities or agencies of another state; or to enter into contracts or agreements with such governmental units or entities of another state for the use of such facilities.

The People of the State of Michigan enact:

123.381 Joint waste disposal and water supply systems; definitions. [M.S.A. 5.2769(101)]

Sec. 1. As used in this act:

- (a) "Local unit of government" means any county, city, village, township, school district, port district, metropolitan district or other governmental unit or entity in or of this state; and in or of another state.
- (b) "Waste disposal system" means sewers, intercepters or waste treatment facilities, and facilities for the collection and disposal of refuse, garbage, liquid and solid waste materials.
- (c) "Water supply system" means installations including pipe lines and other facilities needed for the pumping, treatment and distribution of water supplies.

123.382 Local units of government; contracts for construction and operation of joint systems; location of system. [M.S.A. 5.2769(102)]

Sec. 2. Any local unit of government, either alone or jointly with another local unit or units of government, is hereby empowered and authorized to construct, maintain and operate waste disposal systems and water supply systems through agreements or contracts with local units of government located in another state upon such terms as may be agreed upon which are not contrary to any of the laws of this state. The contracts and agreements may provide for the location of the systems either within the boundaries of this state or within the boundaries of the other state.

123.383 Same; contracts for services from foreign state systems. [M.S.A. 5.2769(103)]

Sec. 3. Any local unit of government in this state, either singly or jointly with other local units of government, may enter into contracts and agreements with local units of government in another state for securing or providing of waste disposal or water supply services by means of appropriate facilities located in either state.

123.384 Same; financing. [M.S.A. 5.2769(104)]

Sec. 4. Local units of government may finance the construction, maintenance and operation of such systems pursuant to any laws now existing in this state or such other laws as may be hereafter enacted.

ANNEX OF GREAT LAKES SUBMERGED LANDS

Act 4, 1955, p. 4; Imd. Eff. March 3.

An act to authorize certain cities and villages to annex certain lands submerged by waters of the great lakes or connecting waters; to provide the procedure of annexation; and to declare certain submerged lands part of political subdivisions without annexation.

The People of the State of Michigan enact:

123.581 Great lakes submerged lands; annexation to cities and villages. [M.S.A. 5.3571]

Sec. 1. Any incorporated city or village in this state, which has a boundary on waters of any of the great lakes, shall have the power to annex lands submerged by said waters if said lands are adjacent to its said boundary, the title to which is vested in a private owner pursuant to an act of the legislature of this state, which have no inhabitants, and are not at the time of the conveyance located in any township, city or village.

HISTORY: Title Am. 1961, p. 338, Act 205, Eff. Sept. 8,

123.582 Same; consent, amendment of charter. [M.S.A. 5.3572]

Sec. 2. If the written consent of the owner or owners of such lands to the annexation shall be first procured by the city or village, said annexation shall be accomplished by amending the charter of said city or village to extend the boundaries of said city or village to include said submerged lands sought to be annexed.

123.583 Great Lakes submerged lands; automatic annexation to cities and villages. [M.S.A. 5.3573]

Sec. 3. Whenever the boundary of any city or village in this state is the shore line of any of the Great Lakes or connecting waters, any filled-in submerged land which is attached to and an extension of the upland and which shall have been in existence for more than 15 years and any submerged islands not within any city or village but within 300 yards of the boundary of the city or village shall be included within the boundaries of the city or village without annexation proceedings and shall also be within the boundaries of the county and other units of government.

HISTORY: Add. 1961, p. 338, Act 205; Eff. Sept. 8.

COUNTY BOARD OF SUPERVISORS - REGULATION OF HOUSEBOATS

Act 68, 1957, p. 74; Eff. Sept. 27.

An act to provide for the regulation by county boards of supervisors of sanitation requirements and location of houseboats in the portion of the county outside incorporated cities and villages and to prescribe penalties for the violation of such regulation.

The People of the State of Michigan enact:

123.591 Houseboats; regulation of sanitation and location by counties. [M.S.A. 5.2965(1)]

Sec. 1. The boards of supervisors of any county in the portions of such county outside incorporated cities and villages may regulate by ordinance the sanitation requirements and the location of houseboats on those portions of the lakes, rivers, canals and waterways of the county under their control and jurisdiction.

HISTORY: Am. 1959, p. 17, Act 17; Imd. Eff. Apr. 30. Title Am. 1959, p. 17, Act 17; Imd. Eff. Apr. 30.

123.592 Same; designation of enforcement officer. [M.S.A. 5.2965(2)]

Sec. 2. The boards of supervisors in enacting ordinances under the provisions of this act shall designate the proper county and township official or officials whose duty it shall be to cooperate in the administration and enforcement of the provisions of ordinances so enacted.

123.593 Penalty for violation. [M.S.A. 5.2965(3)]

Sec. 3. Any person violating the provisions of such ordinance is guilty of a misdemeanor HISTORY: Add. 1959, p. 17, Act 17; Imd. Eff. Apr. 30.

CITIES - WATERFRONT IMPROVEMENTS

Act 66, 1941, p. 76; Imd. Eff. May 8.

AN ACT validating all proceedings heretofore had by the governing body of any city in this state having a water front bordering on any navigable waters which has heretofore provided for the acquisition, improvement and repair of water front facilities and improvements and for the issuance of revenue bonds in payment of the cost thereof; validating provisions which may have been made by such cities for the operation and control of such facilities and improvements; granting to such cities the right to license ferries and similar commercial craft and to impose fees and charges for the use of public piers, wharves, docks and landing places therein and to regulate and license the construction, operation, maintenance and business of owning private piers, wharves, docks and landing places of boats, ferries and craft on and adjacent to any lands bordering on such navigable waters with power to cancel such licenses and to make rules and regulations governing the construction, operation and maintenance thereof; validating any agreements which may have been entered into for the leasing of any part of such facilities or improvements; authorizing the issuance of such bonds; and granting supervision and regulation by such cities of all lands located therein which border on such navigable waters, including lands owned by the state of Michigan.

The People of the State of Michigan enact:

123.601 City improvement of water front on navigable waters, and revenue bonds, validation of proceedings. [M.S.A. 5.2768(1)]

Sec. 1. In all cases where the governing body of any city in this state, which has a water front bordering on any navigable waters, has heretofore adopted proceedings for the acquisition, improvement and repair of water front improvements consisting of dock, wharf, park, recreational and similar facilities, and for the issuance of the revenue bonds of such city payable solely from the revenues to be derived from the operation of such water front facilities, under the provisions of the charter of such city, or any general law of this state, or both, all such proceedings are hereby validated, ratified and confirmed, and the provisions thereof are hereby declared to be binding and effective in accordance with their terms.

123.602 Same; proceedings vesting control in board or commission; authority; license of ferries and docks, fees, cancellation. [M.S.A. 5.2768(2)]

Sec. 2. Where any such city whose bonds or obligations are validated by this act has adopted proceedings providing that its municipally owned parks, recreational and water front property, including its piers and docks, are to be controlled and operated by a board or commission other than the governing body of said city, such proceedings are validated, confirmed and declared to be effective, and such board or commission is hereby given control, regulation and supervision over all lands in such city bordering on such navigable waters, including such control over all of the water front portions of all land owned by the state of Michigan or any department or agency thereof as may be necessary to give the commission complete control, regulation and supervision over the use of any piers, docks, wharves, landing places and other structures on such lands for the embarking or disembarking of passengers carried for hire, all as may be provided in such proceedings, and such city, acting either through its governing body or through such board or commission. is hereby granted the right and authority to license ferries and boats and other commercial craft carrying passengers to and from such city and to impose fees and charges for the use of all public piers, wharves, docks and other landing places within the control of such governing body, board or commission under the provisions of this act or under proceedings taken by the governing body or the electors of such city and to regulate and license the construction, operation, maintenance and business of owning and operating private piers, wharves, docks and other landing places of boats, ferries and commercial craft on and adjacent to any lands bordering upon any such navigable waters and may base such license fees and charges upon the number of passengers using such piers, wharves, docks or landing places or may make such other charges, license fees and impositions in place of or in addition to those hereinbefore authorized as said governing body, board or commission shall from time to time determine. Said governing body, board or commission shall have the power to cancel any and all licenses issued for the operation of private ferries, boats, commercial craft, docks, piers, wharves or other landing places within its control for violation of rules and regulations, which it is hereby authorized to enact, covering the construction, operation and maintenance thereof.

123.603 Lease of water front facilities, validation. [M.S.A. 5.2768(3)]

Sec. 3. Where any such city has heretofore authorized the leasing of any of the water front facilities to be so acquired to a private individual, association or corporation, such authorization is hereby validated and confirmed and such city is authorized to execute and enter into such lease and the terms of such lease are hereby validated and confirmed.

123.604 Revenue bonds, city authorized to issue. [M.S.A. 5.2768(4)]

Sec. 4. Any such city, the governing body thereof, and its officials are hereby authorized to issue the bonds referred to in section 1 hereof, and to that end to make such changes in said proceedings and to adopt such additional proceedings and to do and perform such acts and things as may be reasonably necessary or convenient to the issuance of such bonds.

COUNTY DEPARTMENT OF PUBLIC WORKS

Act 185, 1957, p 227; Imd. Eff. June 4.

AN ACT to authorize the establishing of a department and board of public works in counties containing more than 75,000 inhabitants; to prescribe the powers and duties of any county subject to the provisions of this act; to authorize the issuance and payment of bonds; and to prescribe a procedure for special assessments and condemnation.

The People of the State of Michigan enact:

CHAPTER 1.

GENERAL PROVISIONS

123.731 County public works; definitions. [M.S.A. 5.570(1)]

Sec. 1. As used in this act:

(a) "Members elect" means when applied to the board of supervisors, both members elected and appointed.

- (b) "Acquire" means acquisition by purchase, construction or any other method.
- (c) "Water supply system" means all plants, works, instrumentalities and properties, used or useful in connection with obtaining a water supply, the treatment of water or the distribution of water.
- (d) "Sewage disposal system" means all sanitary sewers, storm sewers, combined sanitary and storm sewers, plants, works, instrumentalities and properties, used or useful in connection with the collection, treatment or disposal of sewage (including storm water, sanitary sewage or industrial wastes).
- (e) "Municipality" means any county, city, village, township, charter township, drainage district, or authority existing under the laws of the state.
- (f) "Resolution" means a resolution or an ordinance in event the governing body of any municipality chooses to act by ordinance rather than by resolution.
- (g) "Governing body" means, in the case of a county, the board of supervisors; in the case of a city, the council, common council, commission or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees or other body having legislative powers; in the case of a township, the township board; in the case of a charter township, the township board; in the case of a drainage district, the drain commissioner or the drainage board and in the case of an authority, the body in which is lodged general governing powers.

HISTORY Am. 1964, p. 46, Act 42, Eff. Aug. 28.

123.736 Same; director; project costs; civil service. [M.S.A. 5.570(6)]

Sec. 6. The board of public works shall have authority to hire a director of public works, whose salary shall be fixed by the board of public works within the budget appropriation. The board of public works shall have power to employ such professional and lay personnel as it shall deem advisable, subject however to budget appropriations but no budget appropriation shall be necessary where services are employed in connection with acquiring any project and are to be included in the project cost and payable from the proceeds of bonds or special assessments. The cost of any project and of operating and maintaining the same, shall include amounts sufficient to cover the general administrative costs pertaining thereto. The provisions of this section shall be subject to any applicable statutory provisions relating to civil service.

123.737 Same; powers. [M.S.A. 5.570(7)]

Sec. 7. Any county establishing a department of public works shall have the following powers to be administered by the board of public works subject to any limitations thereon:

(a) To acquire a water supply system within any one or more areas in the county, and to improve, enlarge, extend, operate and maintain such system.

(b) To acquire a sewage disposal system within any one or more areas in the county, and to improve, enlarge, extend, operate and maintain such system.

123.738 Water supply and sewage disposal systems; outside of county; consent. [M.S.A. 5.570(8)]

Sec. 8. Any county operating under this act may acquire outside its corporate limits any part of a water supply system which is necessary for the purpose of securing a source of supply and may acquire outside its corporate limits any part of a sewage disposal system which is necessary for the purpose of disposing, including treatment, of its sewage. Any county operating under this act may also acquire for any purpose any part of a water supply system and any part of a sewage disposal system in an adjoining county or counties upon the consent expressed by contract with or resolution of the governing body of the municipality or municipalities in such adjoining county or counties in which such part of such system is to be located or which is to be served by such part of such system. The exercise by any county of such powers outside its corporate limits shall be subject to all constitutional provisions relating thereto.

HISTORY: Am. 1964, p. 47, Act 42, Eff. Aug. 28.

123.739 Same; service to municipalities and individual users. [M.S.A 5.570(9)]

Sec. 9. No county shall have the power to furnish water service or sewage disposal service to the individual users within any municipality without its consent. The foregoing shall not prevent the county from extending any sewage disposal system into any municipality where in the opinion of a majority of the members-elect of the board of supervisors the same is necessary to protect health or property in any adjacent municipality and from furnishing sewage disposal services to individual users therein. Any such extensions may be constructed along with the construction of the original system or thereafter.

123.740 Same; approval of acquisition by board of supervisors; merger of systems. [M.S.A. 5.570(10)]

Sec. 10. The establishment of any county water supply system or county sewage disposal system shall be approved by a majority of the members elect of the county board of supervisors. After such approval the board of public works shall have power to acquire such system and to improve, enlarge, extend, operate and maintain the same, subject to any restrictions placed thereon by the board of supervisors in the resolution establishing the same or by this act. Any 2 or more systems established by any county and the areas served thereby may be merged or combined by resolution adopted by a majority of the members elect of its board of supervisors after which the merged or combined systems may be improved, enlarged, extended, operated and maintained under this act as a single system serving the total areas of the systems but no merger or combination shall affect either the rights and obligations acquired by any municipality by any contract with respect to any established system or the security of any bonds or the prompt payment of principal or interest thereon. A resolution adopted by the governing body of any city, village, township or charter township authorizing and approving a contract with respect to the financing of or service from any sewage disposal system constitutes, notwithstanding any statutory or charter limitation to the contrary, a permit to acquire, improve, enlarge, extend, operate and maintain the sewage disposal system within the corporate limits of the city, village, township or charter township.

HISTORY: Am. 1964, p. 47, Act 42, Eff. Aug. 28.

123.741 Same; methods of financing. [M.S.A. 5.570(11)]

Sec. 11. (1) The acquirement of any water supply system or sewage disposal system or the improvement, enlargement or extension thereof, may be financed in any one of the following methods, or any combination thereof:

(a) By the issuance of revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or any other applicable act:

(b) By the issuance of bonds secured by payments to become due under contracts whereby one or more municipalities agree to pay to the county operating under this act certain sums toward the cost of the acquisition, improvement, enlargement, or extension of any project which may be made hereunder;

(c) By the issuance of bonds in anticipation of the payment of special assessments made by the board of public works;

(d) By moneys advanced by a county operating under this act under agreements with a municipality or municipalities for the repayment of the same.

(e) By moneys advanced, from time to time prior to or during construction of any project, by any public or private corporation, firm or individual, in which event the county operating under this act shall reimburse the person, firm or corporation, with interest not to exceed 6% per annum or without interest as may be agreed, when funds are available therefor. The obligation of the county to make the reimbursement may be evidenced by a contract or note, which contract or note may be made payable out of the payments to be made by municipalities, under contracts as described in section 12 or section 15 of this act, or out of the proceeds of bonds issued pursuant to this act by the county or out of any other available funds, but the contract or note shall not be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

Bonds, terms, issuance, tax exemption, sale.

(2) Bonds to be issued under this act shall be authorized by an ordinance or resolution approved by the board of public works and adopted by the county board of supervisors of the county operating under this act. The board of supervisors is hereby authorized, by a 3/5 vote of its members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds issued pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest on revenue bonds notwithstanding any contrary provision in the acts referred to in subdivision (a) of subsection (1). If it shall become necessary for the county operating under this act to advance any moneys, other than its share of the cost of the project, for the payment of principal and interest, then it shall be entitled to reimbursement from any surplus from time to time existing in the fund from which said principal and interest are primarily payable. The bonds shall be issued in the name of the county operating under this act and shall be executed by the chairman of its board of supervisors and its county clerk, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The county clerk shall also affix to the bonds the seal of the county. Bonds issued hereunder shall be negotiable instruments and shall be serial bonds payable annually with the first maturity due not more than 5 years and the last maturity not more than 40 years, from the date thereof. The foregoing provisions shall apply to special assessment bonds as well as other bonds. No annual maturity payable after 5 years from the date of the bonds, shall be less than 1/4 of the amount of any subsequent maturity on the same series of bonds. The bonds shall bear interest at not more than 6% per annum payable semiannually except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be made payable in lawful money of the United States of America and shall be exempt from any and all taxation whatsoever by the state or by any taxing authority within the state. The board of supervisors may authorize the board of public works to sell any such bonds in accordance with the laws of the state.

HISTORY: Am. 1964, p. 47, Act 42; Eff. Aug. 28

123.742 Same; contracts to acquire, improve, or enlarge systems; payment, validation. [M.S.A. 5.570(12)]

Sec. 12. (1) The county operating under this act and any one or more municipalities including the county itself, may enter into a contract or contracts for the acquisition, improvement, enlargement or extension of a water supply system or a sewage disposal system and for the payment of the cost thereof by such contracting municipalities, with

interest, over a period not exceeding 40 years.

- (2) In any such contract or contracts each contracting municipality shall pledge its full faith and credit for the payment of its obligations thereunder and if the municipality has taxing power, shall each year levy a tax, which shall not be within any statutory or charter limitation, in an amount which taking into consideration estimated delinquencies in tax collections, will be sufficient for the prompt payment of that part of the contract obligations as shall fall due before the following year's tax collection. If any contracting municipality at the time of its annual tax levy shall have on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining such credit, funds may be raised by any municipality in any one or more of the following methods:
 - (a) By service charges to users of the system;

(b) By special assessment upon lands benefited;

- (c) By the exaction of charges for the connection of properties, directly or indirectly, to the system;
- (d) By setting aside any state collected funds disbursed to the municipality and usable therefor; and

(e) By setting aside any other available moneys.

The foregoing tax requirements when applied to a county or township shall be subject to any constitutional tax limitation or any lawful increase thereof. Any municipality

may agree to raise all or any part of its contract obligation by any one or more of the foregoing methods which may be available. The various powers in this act granted to any municipality shall be exercised by its governing body. Any contract heretofore entered into which complies with the provisions of this act, as now amended, is hereby validated.

HISTORY: Am. 1959, p. 37, Act 34: Imd. Eff. May 12: Am. 1964, p. 48, Act 42, Eff. Aug. 28

123.743 Project special assessment district; municipal special assessments. [M.S.A. 5.570(13)]

Sec. 13. When the board of public work and determine to spread all or part of the cost of a project to a special assessment discass it shall proceed as provided in chapter 2 of this act. If a municipality other than a county operating under this act elects to raise moneys to pay all or any portion of its share of the cost of a project by assessing the same upon benefited lands, its governing body shall so determine by resolution and fix the district therefor. The governing body shall then cause a special assessment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments thereon, shall be in accordance with the provisions of the statute or charter governing special assessments in the municipality, except that the total assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district previously established in which event due consideration shall be given to the objections.

HISTORY: Am. 1964, p. 49, Act 42, Eff. Aug. 28.

123.744 Water supply or sewage disposal system; acquisition. [M.S.A. 5.570(14)]

Sec. 14. Any county operating hereunder, by action of its board of public works, may acquire property for a water supply system or a sewage disposal system, by purchase, construction, lease, gift, devise, or condemnation, either within or without its corporate limits and may hold, manage, control, sell, exchange, or lease such property. No real estate shall be disposed of without the approval of the board of supervisors. For the purpose of condemnation it may proceed as provided in chapter 3 of this act.

123.745 Municipality service contract with county; county contracts. [M.S.A. 5.570(15)]

Sec. 15. Any one or more municipalities or other public corporations, either within or without the county, shall have authority to contract for the purchase of water or sewage disposal services or transportation from a county operating under this act. Any charges specified in any such contract shall be subject to increase by such county at any time, if necessary, in order to provide funds to meet the obligations of the project involved. The county operating under this act may enter into contract with any public or private corporation, for the purchase by such county from or for the sale by the county to the corporation of water or sewage disposal services, and for the right to transport sewage through the sewers of the county or of the corporation. Any contract authorized herein shall be for a period of not exceeding 50 years.

HISTORY: Am. 1964, p 49, Act 42, Eff. Aug. 28.

MUNICIPAL AUTHORITY WATER AND SEWAGE DISPOSAL SYSTEMS

Act 196, 1952, p. 286; Imd. Eff. April 29.

AN ACT to provide for the incorporation of municipal authorities to acquire, own and operate water supply systems; to prescribe the rights, powers and duties thereof; and to authorize contracts between such authorities and other public corporations.

The People of the State of Michigan enact:

124.251 Water supply system; definition. [M.S.A. 5.2533(1)]

Sec. 1. The term "water supply system", as herein used, shall be deemed to include all plants, works, instrumentalities and properties, used or useful in connection with the obtaining of a water supply, the treatment of water and/or the distribution and sale of water.

County.

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124.252 Same; authority, articles of incorporation, adoption, endorsement, form, publication, filing; validity. [M.S.A. 5.2533(2)]

Sec. 2. Any 2 or more cities, villages or townships (hereinafter sometimes referred to as "municipalities") or any combination thereof, may incorporate an authority for the purpose of acquiring, owning, and/or operating a water supply system or systems, by the adoption of articles of incorporation by the legislative body of each municipality. The fact of such adoption shall be endorsed on such articles of incorporation by the mayor and clerk in case of a city, the president and clerk in case of a village, and the supervisor and clerk in case of a township, in form substantially as follows:

"The foregoing Articles of Incorporation were adopted by the of the of Michigan, at a meeting duly held on the day of

of said

of said

The authority shall be comprised of the territory lying within such incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in said articles and circulating within the authority. One printed copy of such articles of incorporation certified as a true copy by the person or persons designated therefor, with the date and place of such publication, shall be filed with each, the secretary of state and the clerk of the county within which such territory or the major portion thereof is located. Such authority shall become effective at the time provided in said articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

124.253 Same; articles, contents. [M.S.A. 5.2533(3)]

Sec. 3. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitations of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

124.254 Same; authority body corporate; powers. [M.S.A. 5.2533(4)]

Sec. 4. Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

124.255 Same; acquire, etc., property. [M.S.A. 5.2533(5)]

Sec. 5. The authority may acquire property for a water supply system by purchase, construction, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, as now or hereafter amended, or any other appropriate statute.

124.256 Same; sale and purchase of water; contracts. [M.S.A. 5.2533(6)]

Sec. 6. The authority and any of its constituent municipalities shall have authority to contract for the sale and purchase of water. The charges specified in such contract shall be subject to increase by the authority at any time if necessary in order to provide funds to

meet its obligations. The authority and any city, village or township, which is not a constituent part thereof, may contract for the sale and purchase of water, which contract may provide for charges greater than those to the constituent municipalities, but the charges thereunder shall be subject to change by the authority from time to time. The authority and any other public corporation may enter into a contract for the purchase by the authority of water from such public corporation. Any contract authorized herein shall be for a period of not exceeding 50 years.

124.257 Same; city, village or township may become constituent part; amendment of articles. [M.S.A. 5.2533(7)]

Sec. 7. Any city, village or township, which did not join in the incorporation of an authority, may become a constituent part thereof by amendment to the articles of incorporation adopted by the legislative body of such city, village or township and by the legislative body of each city, village or township of which such authority is composed. Other amendments may be made to such articles of incorporation if adopted by the legislative body of each city, village or township of which the authority is composed. Any such amendment shall be endorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

124.258 Same; tax. [M.S.A. 5.2533(8)]

Sec. 8. The legislative body of each city, village or township which is a part of such authority is authorized to raise by tax or pay from its general funds, any moneys required to be paid by the articles of incorporation or by the terms of any contract between it and the authority, unless some other method is provided therefor in such articles of incorporation or contract. The authority shall have no direct taxing power.

124.259 Same; bonds, issuance, payment. [M.S.A. 5.2533(9)]

Sec. 9. For the purpose of acquiring, improving, enlarging and/or extending a water supply system, the authority may issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948, as now or hereafter amended, or any other act providing for the issuance of such bonds: Provided, That no such bonds shall be a general obligation of the authority, but shall be payable solely from the revenues of the water supply system.

124.260 Same; services. [M.S.A. 5.2533(10)]

Sec. 10. Within the scope of the definition contained in section 1 of this act, any authority shall have the right to determine what shall constitute its water supply system and the functions thereof, and may determine that its water services shall be furnished to public corporations and/or private consumers.

The authority may also furnish water direct to any city water supply district as defined in section 3 of Act No. 107 of the Public Acts of 1941, as now amended, or to any similar independently financed and operated supply system in a prescribed water supply district. If the territory within such a water supply district shall become incorporated as a city, then any contract for supplying water by the authority to such district, shall remain in full force and effect during the life of such contract and shall be carried out by the authority and such city.

124.261 Same; jurisdiction; amendment of articles. [M.S.A. 5.2533(11)]

Sec 11. No change in the jurisdiction over any territory in any city, village or town-ship which has contracted for a supply of water from the authority, shall in any manner impair the obligations of such contract, but the same shall be carried out, insofar as such territory is concerned, by the authority and such municipality or municipalities as shall have jurisdiction to furnish water to such territory. No change in municipal jurisdiction over any territory within an authority shall in any manner affect the authority or its boundaries. If a new city shall be incorporated from a township in the authority and if such city shall exercise jurisdiction over the water supply system within its boundaries, then it shall be

deemed to be a constituent municipality of the authority. If the territory within a water supply district, as defined in section 10 hereof, is incorporated as a new city having jurisdiction over the water supply system and if at the time of such incorporation there shall exist a contract with the authority for a water supply to such territory, then such city shall be a constituent municipality of the authority upon the approval of the legislative bodies of 2.3 of the cities, villages and townships constituting the authority and upon acceptance by the city of the articles of incorporation. If it shall be necessary to amend the articles of incorporation in order to give any such new city comparable rights with other constituent municipalities, the same may be accomplished upon the approval of the legislative bodies of 2.3 of the cities, villages and townships constituting the authority.

124.262 Same; powers. [M.S.A. 5.2533(12)]

Sec. 12. The powers herein granted shall be in addition to those granted by any charter or other statute.

Act 233, 1955, p. 346; Eff. Oct. 14.

AN ACT to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve and operate sewage disposal systems and water supply systems; to prescribe the rights, powers and duties thereof; to authorize contracts between such authorities and public corporations; and to provide for the issuance of bonds to acquire, construct, extend or improve sewage disposal systems or water supply systems.

The People of the State of Michigan enact:

124.281 Joint authority for acquiring sewage disposal and water supply systems; definitions. [M.S.A. 5.2769(51)]

Sec. 1. As used in this act:

(a) "Sewage disposal system," includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities and properties used or useful in connection with the collection, treatment or disposal of sewage or industrial wastes.

(b) "Water supply system," includes all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water or the

distribution of water.

(c) "Municipality," includes any county, township, charter township, incorporated city

or incorporated village.

(d) "Constituent municipality" or "constituent municipalities" includes all of the municipalities which signed or became signatories of articles of incorporation of any authority incorporated under the provisions of this act, except where such authority is incorporated by 2 or more counties, in which event each municipality within the respective territorial limits of such counties as are either original incorporators or subsequently become a constituent part thereof under the provisions of section 6 of this act, shall be deemed to be a constituent municipality for the purposes of this act.

HISTORY: Am. 1958, p. 36, Act 34, Imd. Eff. Apr. 3.

124.282 Same; incorporation, procedure. [M.S.A. 5.2769(52)]

Sec. 2. Any 2 or more municipalities may incorporate an authority for the purpose of acquiring, owning, improving, enlarging, extending and operating a sewage disposal system and/or a water supply system, by the adoption of articles of incorporation by the legislative body of each of the municipalities. The fact of such adoption shall be endorsed on such articles of incorporation by the chairman of the board of supervisors and the county clerk in case of a county; the mayor and clerk in case of a city; the president and clerk in case of an incorporated village; and the supervisor and clerk in case of a charter township or township, in form substantially as follows:

GRAND RIVER BASIN COORDINATING COMMITTEE DETROIT MI F/G 8/6
GRAND RIVER BASIN MICHIGAN. COMPREHENSIVE WATER RESOURCES STUDY--ETC(U)
MAY 70 AD-A044 536 UNCLASSIFIED NL 4 OF 8 A044536

"The foregoing articles of incorporation were adopted by the						
of the	of					
County, Michigan, at a meeting duly held on the	day of	. 19				

of said

of said

The authority shall be comprised of the territory lying within such incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in said articles and having general circulation within the territory encompassed by the authority. One printed copy of such articles of incorporation certified as a true copy by the person or persons designated therefor, with the date and place of such publication, shall be filed with each the secretary of state and the clerk of the county within which such territory or the major portion thereof is located. Such authority shall become effective at the time provided in said articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

124.283 Same; articles of incorporation, contents. [M.S.A. 5.2769(53)]

Sec. 3. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitation of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

124.284 Same; body corporate, powers. [M.S.A. 5.2769(54)]

Sec. 4. Such authority shall be a municipal authority and shall be a public body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers of this act shall not be construed as a limitation upon such general powers.

The authority is hereby authorized and empowered to

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the same at pleasure.

(c) Maintain an office at such place or places within the state as it may designate

(d) Sue and be sued in its own name, plead and be impleaded.

(e) Determine the location of any project constructed by it under the provisions of this act, and to determine, in its discretion and without reference to any other provisions of this act or any other law, the design, standards and the materials of construction, and construct, maintain, repair and operate the same, except the functions, powers and duties of the state commissioner of health in connection with any such public improvements shall remain unaffected by this act.

(f) Issue bonds of the authority for any of its corporate purposes under such means as may be provided in this act. If revenue bonds are issued under the provisions of section 12 of this act, or sections 12b and 12c of this act, they shall be payable solely from the revenues pledged for their payment, as provided in this act.

(g) Establish rules and regulations for the use of any project constructed by it under the provisions of this act.

(h) Acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act.

HISTORY: Am. 1958, p. 36, Act 34, Imd. Eff. Apr. 3.

124.285 Same; acquisition of property, condemnation. [M.S.A. 5.2769(55)]

Sec. 5. The authority may acquire property for a sewage disposal system and/or a water supply system by purchase, construction, lease, gift, or devise, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, or any other statute which grants to any municipality or public body the authority to acquire private property for public use.

124.286 Joint authority for acquiring sewage disposal and water supply systems; subsequent addition of other municipalities; amendment of articles. [M.S.A. 5.2769(56)]

Sec. 6. Any municipality which did not join in the incorporation of an authority may become a constitutent part thereof by amendment to the articles of incorporation adopted by the legislative body of such municipality and by the legislative body of each municipality of which such authority is composed. Other amendments may be made to the articles of incorporation if adopted by the legislative body of each municipality of which the authority is composed. Any such amendment shall be indorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

HISTORY: Am. 1957, p. 473, Act 299, Imd. Eff. June 19.

124.287 Same; contracts to acquire system; financing. [M.S.A. 5.2769(57)]

Sec. 7. The authority and any of its constitutent municipalities are authorized to enter into a contract or contracts providing for the acquisition, construction, improvement, enlargement, extension, operation and financing of a sewage disposal system and/or a water supply system, which contract or contracts shall provide for the allocation and payment of the share of the total cost to be borne by each such municipality in annual installments for a period of not exceeding 40 years. Each contracting municipality is authorized to pledge its full faith and credit for the payment of said obligation in the manner and times specified in the contract or contracts, in which event it shall be the duty of each such contracting municipality to include in its annual tax levy an amount sufficient so that the estimated collections therefrom will be sufficient to promptly pay when due such portion of such obligation falling due before the time of the following year's tax collection. No limitation in any statute or charter shall prevent the levy and collection by each of said contracting municipalities of the full amount of taxes necessary for the payment of said contractual obligation. If at the time of making such annual tax levy, there are other funds on hand earmarked for the payment of said contractual obligation, then credit therefor may be taken upon such annual levy for the payment of such obligation. Such other funds may be raised by each contracting municipality by the use of any, or all, or any combination of the following additional methods: (a) The levy of special assessments on property benefited by such sewage disposal system and/or water supply system, the procedures relative to the levying and collection of such special assessments to conform as near as may be to applicable charter or statutory provisions therefor except that no petition shall be required from property owners; (b) the levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the sewage disposal system and/or water supply system; (c) the exaction of connection charges to be paid by owners of land directly or indirectly connected with such sewage disposal system or water supply system; (d) from moneys received, or to be received, derived from the imposition of taxes by the state of Michigan, except as the use of such money for such purpose is expressly prohibited by the constitution of the state of Michigan; and (e) from any other fund or funds which may be validly used for such purpose. Such contract or contracts may provide for any and all matters relating to the acquisition, construction, operation and financing of the sewage disposal system and/or water supply system as are deemed necessary, including authorization to the authority to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized by section 9 of this act. Said contract or contracts may provide for appropriate remedy or remedies in case of default.

HISTORY: Am. 1957, p. 474, Act 299, Imd. Eff. June 19.

124.288 Same; contract with a constituent municipality, execution; referendum, petitions. [M.S.A. 5.2769(58]

Sec. 8. Any municipality desiring to enter into a contract with the authority under the provisions of section 7 hereof shall authorize, by resolution of its governing body, the execution of such contract, which resolution shall be published in some newspaper of general circulation within such municipality, and such contract may be executed without a vote of the electors thereon upon the expiration of 30 days after the date of such publication unless, within said 30-day period, a petition signed by not less than 10% of the registered electors residing within the limits of such municipality shall have been filed with the clerk thereof requesting a referendum upon the execution of such contract, and in that event such contract shall not be executed until approval by the vote of a majority of the electors of such municipality qualified to vote and voting thereon at a general or special election to be held not more than 90 days after the filing of such petition. Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any such petition shall be verified by some person or persons under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk of the municipality shall have the same power to reject signatures as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Compiled Laws of 1948. The number of registered electors in any municipality shall be determined by the registration books as of the date of the filing of said petition.

124.289 Same; bonds, contracts. [M.S.A. 5.2769(59)]

Sec. 9. For the purpose of obtaining funds for the acquisition, construction, improving, enlarging or extending of the sewage disposal system and/or water supply system authorized by this act, the authority, after the execution of the contract or contracts authorized by sections 7 and 8 of this act, upon ordinance or resolution duly adopted by it, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization contained in this act and the contract or contracts entered into pursuant to said sections 7 and 8. Said bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 4 years from the date of issuance, and the last of which shall fall due not more than 40 years from the date of issuance, and no maturity after 4 years from date of issuance shall be less than ½ the amount of any subsequent maturity. Save as herein otherwise provided, said bonds shall be issued and sold and subject to all other applicable provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948. The ordinance or resolution authorizing the issuance of said bonds shall have embodied therein the terms of the contract or contracts authorized by sections 7 and 8 of this act.

124.290 Same; contracts with other municipalities for service, income, duration. [M.S.A. 5.2769(60)]

Sec. 10. The authority and any constituent or non-constituent municipality thereof may contract for the furnishing of water or sewage disposal services by the authority to the municipality. Any charges or rates specified in such a contract shall be subject to change by the authority from time to time if necessary to meet its obligations. The charges or rates to a non-constituent municipality may be greater than those to constituent municipalities. The authority and any other public corporation may contract for the furnishing of water or sewage disposal services by such other public corporation to the authority or may contract for the use by the authority of any of the facilities of the water supply system or sewage disposal system, including sewers, of the other public corporation. Any lump sum payment for such use may be considered as a part of the cost of the authority system and may be financed the same as other capital costs are financed under this act. Any contract authorized in this section shall be for a period not exceeding 40 years. Any such contract shall be a general obligation of the municipality.

HISTORY: Am. 1957, p. 474, Act 299, Imd. Eff. June 19.

124.291 Same; change in municipal jurisdiction of territory. [M.S.A. 5.2769(61)]

Sec. 11. No change in the jurisdiction over any territory in any municipality which has contracted with the authority for the acquisition, construction and financing of a sewage disposal system and/or water supply system under the provisions of this act, or has contracted with the authority for sewage disposal service or water services, shall in any manner impair the obligations of any such contract. In event of any such change in jurisdiction over territory, any such contract shall be carried out insofar as such territory is concerned by the authority and the municipality as shall have jurisdiction to furnish water or sewage disposal services, as the case may be, to such territory, unless the foregoing would operate to impair a contract obligation, in which case the contracting municipality shall retain jurisdiction over such territory for the purpose of carrying out its said contractual obligations. No change in municipal jurisdiction over any territory within an authority shall in any manner affect the authority or its boundaries.

HISTORY: Am. 1957, p. 475, Act 299, Imd. Eff. June 19.

124.292 Same; revenue bonds; partly other methods of financing. [M.S.A. 5.2769(62)]

Sec. 12. In lieu of the provisions in sections 7, 8 and 9 of this act, in respect to the acquisition, construction, improvement, enlargement, extension or financing of a sewage disposal system or water supply system, the authority may elect to proceed under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or any other act authorizing the issuance of revenue bonds, whereby the financing of any such project would be consummated by the issuance of revenue bonds payable from the revenues of the system or systems. In such event the charges and rates for service in any contract entered into under the provisions of section 10 of this act shall be sufficient to satisfy the provisions of the act under which revenue bonds shall be issued. Any project may be financed in part under the provisions of sections 7, 8 and 9 of this act and in part under the provisions of this section.

HISTORY: Am. 1957, p. 475, Act 299, Imd. Eff. June 19,

124.292a Same; pledge of municipal share of sales tax revenues. [M.S.A. 5.2769(62a)]

Sec. 12a. Any municipality contracting with the authority, either under the provisions of section 7 or section 12 of this act, as additional security for the payment of its contractual obligations, may by resolution of its governing body, irrevocably pledge not to exceed 25% of the moneys derived from the state sales tax levied pursuant to law, and from time to time returned to it under the provisions of section 23, article 10 of the Michigan constitution, to the payment of its said contractual obligations, and such resolution may also authorize and direct the county treasurer or other official charged with the disbursement of such funds, to withhold and pay over to the authority sufficient of such moneys to make up any deficiency in funds to meet its contractual obligations.

HISTORY: Add. 1957, p. 475, Act 299, Imd. Eff. June 19

124.292b Same; projects costing over \$50,000,000, financing, definition of cost. [M.S.A. 5.2769(62b)]

Sec. 12b. (1) As an additional or alternative method of financing a water supply system or sewage disposal system, hereinafter generally referred to in this section and section 12c as the "project", any authority proposing a project to cost a sum of \$50,000,000.00 or more for such purposes, is authorized to proceed under the provisions of this section and section 12c. In such event the authority is hereby authorized by resolution or resolutions of its governing body to provide for the issuance of revenue bonds for the purpose of paying all or any portion of the cost of the project, or for the purpose of refunding the bonds, including refunding bonds, or for any combination of such purposes. The term "cost of the project" includes all expenditures made in connection with the acquisition and construction thereof, financing charges, interest to accrue on the bonds during the period of construction of the project and for a period of not to exceed 1 year

thereafter, cost of engineering and legal expenses, plans, specifications and surveys, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of the project and the placing of the project in operation, including the repayment of any moneys advanced by constituent municipalities of the authority for any of the above purposes. The authority may enter into such contracts for financial, fiscal agents, legal or engineering services in connection with the financing and construction of the project as it deems necessary and advisable. The authority shall not contract for the payment of stand-by bids or finders' fees.

Project revenue bonds, payment, terms, additional bonds at parity, signatures, tax exemption, interest, approval, regularity.

(2) Principal of and interest and redemption premiums on the bonds issued under this section shall be payable solely from the revenues of the project, except that payments may also he made from the proceeds of refunding bonds issued under this section. The term "revenues of the project" as used in this section and section 12c means revenues derived from contracts with municipalities entered into pursuant to the provisions of section 10 of this act, and all other sources of revenue of the authority derived from the operation of the project. The bonds may be either serial bonds or term bonds, or any combination thereof. Any serial bonds shall have annual or semiannual maturities, the first maturity of which shall be payable not more than 10 years from their date. Any bonds shall be redeemable commencing with an interest payment date to be determined at such prices and upon such terms and conditions as prescribed by the authorizing resolution of the governing body of the authority, and recited upon the face of the bonds. The bonds shall mature not more than 40 years from their date, shall be coupon bonds bearing interest at not more than 6% per annum, payable semiannually, except as to the first coupon, which may be for any number of months not exceeding 10, shall be payable in such medium, shall be in such form and executed in such manner, shall have such privilege of registration as to principal or principal and interest, shall be payable at such places within or without the state, and shall otherwise have such other details as may be fixed by resolution of the governing body of the authority. The resolution of the governing body of the authority may provide the terms and conditions under which additional revenue bonds may be issued, having parity of lien with those issued and outstanding for the purpose of completing the project or providing for additions, extensions and improvements thereto. All bonds issued under the provisions of this section shall contain a statement on their face that they are payable solely and only from the revenues of the authority specifically pledged for their payment, and that the authority is authorized to pay such bonds and interest only from the revenues pledged thereto under the provisions of this section. If any official whose signature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes with like effect as though the person had remained in office until delivery. All such bonds are hereby declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the negotiable instruments law of the state, subject only to the provisions for registration of the bonds which may appear therein. The bonds shall be exempt from all taxation by the state or any of its political subdivisions, and may be sold by the governing body of the authority in such manner as it, in its sole discretion, determines to be in the best interest of the authority, but no sale shall be made at a price that will result in an interest cost of more than 6% per annum. The issuance and sale of bonds shall not be subject to the approval or authorization of any other agency of government, whether federal, state or local, but shall be entirely within the discretion and judgment of the governing body of the authority. Prior to the preparation of definitive bonds, the governing body of the authority may provide for the issuance of temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The proceedings authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

HISTORY: Add. 1958, p. 37, Act 34, Imd. Eff. Apr. 3.

124.292c Trust indenture; terms, engineering supervision. [M.S.A. 5.2769(62c)]

Sec. 12c. (1) In the discretion of the governing body of the authority, any series of bonds issued pursuant to the authorization of section 12b of this act may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, but no trust indenture shall convey or mortgage the project or any part thereof. Either the resolution providing for the issuance of bonds or the trust indenture may contain such provisions for the security and payment of the bonds and for the protection and enforcement of the rights and remedies of the bondholders as may be deemed advisable by the governing body of the authority, not in violation of the constitution of this state, including specifically covenants setting forth:

(a) The duties of the authority in relationship to the construction, maintenance, operation, repair and insurance of the project;

(b) The pledge of revenues of the project or any part thereof;

(c) Limitations on the amount of money derived from the operation of the project which may be expended for operating, administrative or other specified expenses of the authority;

(d) The safeguarding and application of the fund from which the cost of the project is to be paid and of the revenues pledged to the payment of the bonds, all of which may be deposited in as received and paid out by such banks as may be therein provided;

(e) Provisions for the employment of consulting engineers to supervise the construction of the project, and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect thereto deemed advisable by the governing body of the authority and the appointment of which consulting engineers shall be subject to such approval by the purchasers or holders of the bonds as may be provided in such resolution or indenture;

(f) Rights and remedies of the bondholders and the trustee, if any, and such restrictions thereon as may be considered advisable; and

(g) Any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and salable at the best available prices.

Same; annual audit.

(2) The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustee specified in such resolution or trust indenture by a certified public accountant or accountants to be selected by the governing body of the authority and approved by the manager or managers of the account purchasing the bonds.

Same; trustee's collateral security; expenses, default.

(3) Any bank or trust company designated as trustee or as depositary for any funds. notwithstanding any provision of law to the contrary, is authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the government of the United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value, exclusive of accrued interest, at least equal to the amount of the deposit; or in lieu of the collateral security as to all or any part of the deposit, there may be lodged with the trustee, or with the governing body of the authority in case of moneys deposited or remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bonds of a surety company or companies qualified as surety for deposits of the government of the United States and qualified to transact business in the state, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the governing body of the authority. All expenses incurred in carrying out the provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished may be treated as part of the cost of maintaining and operating the project. The resolution or trust indenture may contain such other provisions as the governing body of the authority may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers and duties arising upon the breach by the authority of any of its duties and obligations.

Restriction to revenue bonds.

(4) Nothing contained in the 1958 amendments to this act shall be construed to authorize the issuance of other than revenue bonds.

Municipal finance commission approval.

(5) Bonds issued under sections 12b and 12c of this act shall be subject to the prior approval of the municipal finance commission in accordance with the provisions of Act No. 202, of the Public Acts of Michigan of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948.

HISTORY: Add. 1958, p. 39, Act 34, Imd. Eff. Apr. 3.

124.293 Same; taxing power of constituent municipalities. [M.S.A. 5.2769(63)]

Sec. 13. The legislative body of each municipality which is a member of the authority is authorized to raise by tax or pay from its general funds, any moneys required to be paid by the articles of incorporation for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications and cost estimates of a proposed sewage disposal system or water supply system. The authority shall have no direct taxing power.

124.294 Additional powers. [M.S.A. 5.2769(64)]

Sec. 14. The powers herein granted shall be in addition to those granted by any charter or other statute.

DWELLINGS

HOUSING LAW OF MICHIGAN

Act 167, 1917, p. 311; Eff. Aug. 10.

AN ACT to promote the health, safety and welfare of the people by regulating the light and ventilation, sanitation, fire protection, maintenance, alteration and improvement of dwellings; to define the classes of dwellings affected by the act, to establish administrative requirements and to establish remedies and fix penalties for the violation thereof,

The People of the State of Michigan enact

ARTICLE I.

GENERAL PROVISIONS.

125.407 Sewer connections and water supply. [M.S.A. 5.2777]
Sec. 7. Sewer connections and water supply. The provisions of this act with reference to sewer connections and water supply shall be deemed to apply only where connection with a public sewer and with public water mains is or becomes reasonably accessible. All questions of the practicability of such sewer and water connections shall be decided by the health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2493.

ARTICLE II.

DWELLINGS HEREAFTER ERECTED.

TITLE II.—SANITATION.

125.434 Water supply. [M.S.A. 5.2805]

Sec. 34. Water supply. In every dwelling hereafter erected and not exempted in section 7 of this act, there shall be a proper sink or washbowl with running water, exclusive of any risk in the cellar. In 2 family dwellings and in multiple-dwellings of class A there shall be such a sink or washbowl in each apartment, suite or group of rooms.

HISTORY: CL 1929, 2521.

ARTICLE IV.

MAINTENANCE.

125.466 Water-closets in cellars. [M.S.A. 5.2838]

Sec. 66. Water-closets in cellars. No water-closet shall be maintained in the cellar of any dwelling without a permit in writing from the health officer, who shall have power to make rules and regulations governing the maintenance of such closets. Under no circumstances shall the general water-closet accommodations of any multiple dwelling be permitted in the cellar or basement thereof; this provision, however, shall not be construed so as to prohibit a general toilet room containing several water-closets, provided such water-closets are supplementary to those required by law.

HISTORY: CL 1929, 2554.

125.467 Water-closet accommodations. [M.S.A. 5.2839]

Sec. 67. Water-closet accommodations. In every dwelling existing prior to the passage of this act there shall be provided at least 1 water-closet for every 2 apartments, groups or suites of rooms, or fraction thereof, except that in multiple-dwellings of class B there shall be provided at least 1 water-closet for every 15 occupants or fraction thereof. HISTORY: CL 1929, 2555.

125.468 Basement and cellar rooms. [M.S.A. 5.2840]

Sec. 68. Basement and cellar rooms. No room in the cellar of any dwelling erected prior to the passage of this act shall be occupied for living purposes. And no room in the basement of any such dwelling shall be so occupied without a written permit from the health officer, which permit shall be kept readily accessible in the main living room of the apartment containing such room. No such room shall hereafter be occupied unless all the following conditions are complied with:

- (1) Such room shall be at least 7 feet high in every part from the floor to the ceiling.
- (2) The ceiling of such room shall be in every part at least 3 feet 6 inches above the surface of the street or ground outside of or adjoining the same.
 - (3) There shall be appurtenant to such room the use of a water-closet.
- (4) At least 1 of the rooms of the apartment of which such room is an integral part shall have a window opening directly to the street or yard, of at least 12 square feet in size clear of the sash frame, and which shall open readily for purposes of ventilation.
 - (5) The lowest floor shall be water-proof and damp-proof.
- (6) Such room shall have sufficient light and ventilation, shall be well drained and dry, and shall be fit for human habitation.

HISTORY: CL 1929, 2556.

125.469 Kitchen, use of jointly by more than 1 family prohibited. [M.S.A. 5.2841]

Sec. 69. Use of kitchens. No kitchen or cooking accommodations shall be permitted or maintained in any room or space of any building for the common or joint use of the individual occupants of a 2 family or multiple family dwelling.

HISTORY: CL 1929, 2557; -- Am. 1939, p. 730, Act 303, Eff. Sept. 29.

125.470 Water-closets and sinks, floors under and around. [M.S.A. 5.2842]

Sec. 70. Water-closets and sinks. In all 2 family dwellings and multiple dwellings the floor or other surface beneath and around water-closets and sinks shall be maintained in good order and repair and if of wood shall be kept well painted with light colored paint.

HISTORY: CL 1929, 2558.

125.471 Repairs and drainage. [M.S.A. 5.2843]

Sec. 71. Repairs and drainage. Every dwelling and all the parts thereof including plumbing, heating, ventilating and electrical wiring shall be kept in good repair by the owner. The roof shall be so maintained as not to leak and the rain water shall be drained and conveyed therefrom through proper conduits into the sewerage system in accordance with plumbing regulations so as to avoid dampness in the walls and ceilings and insanitary conditions.

HISTORY: C.L. 1929, 2559; -Am. 1939, p. 730, Act 303, Eff. Sept. 29.

125.472 Water supply. [M.S.A. 5.2844]

Sec. 72. Water supply. Every dwelling not exempted in section 7 of this act shall have within each apartment or family unit at least 1 approved sink with running water furnished in sufficient quantity at all times. The owner shall provide proper and suitable tanks, pumps or other appliances to receive and to distribute an adequate and sufficient supply of such water at each floor in the said dwelling at all times of the year, during all hours of the day and night. But a failure in the general supply of city water shall not be construed to be a failure on the part of such owner, provided proper and suitable appliances to receive and distribute such water have been provided in said dwelling.

HISTORY: C L 1929, 2560;—Am. 1939, p. 730, Act 303, Eff. Sept. 29.

125.473 Catch-basins. [M.S.A. 5.2845]

Sec. 73. Catch-basins. In the case of dwellings where, because of lack of city water supply or sewers, sinks with running water are not provided inside the dwellings. 1 or more catch-basins or some other approved convenience for the disposal of waste water, as may be necessary in the opinion of the health officer or such other appropriate public official as the mayor may designate, shall be provided in the yard or court, level with the surface thereof and at a point easy of access to the occupants of such dwelling.

HISTORY: CL 1929, 2561.

TRAILER COACH PARK ACT OF 1959

Act 243, 1959, p. 360; Eff. Mar. 19, 1960.

AN ACT to define, license and regulate trailer coach parks; to prescribe the powers and duties of the state health commissioner and other state and local officers; to provide for the levy and collection of specific taxes on occupied trailers in trailer coach parks and the disposition of the revenues therefrom; to provide remedies and penalties for the violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

125.1055 Same; water supply. [M.S.A. 5.278(85)]

Sec. 55. The water supply serving any park constructed after the effective date of this act shall be obtained from a municipal supply if it is available and accessible. If a connection is not available and accessible, the water shall be obtained from a source approved by the commissioner, and such supplies shall conform with all applicable provisions in the rules and regulations of the commissioner pertaining thereto. A connection from the park system shall be provided for each trailer site.

125.1056 Same; plumbing. [M.S.A. 5.278(86)]

Sec. 56. Plumbing in all trailer coach parks shall comply with all applicable codes or ordinances. In the absence of such codes or ordinances, plumbing shall meet the requirements of the standards of the state plumbing board with respect to layout, materials and work manship.

125.1057 Same; sewage and waste disposal. [M.S.A. 5.278(87)]

Sec. 57. Methods and facilities for collection, treatment and disposal of sewage or other water carried wastes shall comply with any applicable ordinances or regulations and shall be of such a nature and capacity and so maintained and operated as not to create unlawful pollution of the waters of the state, a menace to health or a condition of nuisance. No waste water from trailer coaches shall be deposited on the surface of the ground. Trailer coach parks shall connect to a public sewer system where a public sewer system is available and accessible. Where no public sewer system is available and accessible, devices for the collection, treatment and disposal of sewage satisfactory to the commissioner shall be provided, and if no practicable way can be found by which proper waste disposal is assured, the permit shall not be issued.

125.1058 Same; sewers. [M.S.A. 5.278(88)]

Sec. 58. Sewers shall be laid at depths sufficient to provide adequate protection against physical injury and against freezing and trapped below the frost line for each service connection. An approved type of sewer connection shall be used for each trailer, which shall be odor tight and free from leakage. The owner or operator of the park shall see that connections are made to the sewer and maintained so long as the trailer remains in the park. Sewer connections to unoccupied sites shall be closed off in a manner that will prevent the emanation of odor from the sewer and shall be maintained to prevent the creation of breeding places for flies and insects.

125.1059 Same; service building; self-contained trailers. [M.S.A. 5.278(89)]

Sec. 59. All parks shall provide toilets, urinals, lavatories, laundry facilities and shower or bath tubs in the number specified in section 65 of this act. All parks harboring other than self-contained trailer coaches shall also provide a slop receptacle. All facilities shall be housed in appropriate buildings and shall be so located that no site occupied by other than a self-contained trailer coach shall be more than 300 feet from a building housing the facilities.

125.1060 Same; service building, requirements. [M.S.A. 5.278(90)]

Sec. 60. All service buildings shall be conveniently located, substantially constructed, have good natural and artificial light, be adequately ventilated, have concrete or equally

impervious floors, with curbings of concrete or its equal extending at least 6 inches above the floor. Floors shall be sloped to trapped floor drains.

125.1061 Same; separate toilets; housing. [M.S.A. 5.278(91)]

Sec. 61. Except as they are provided in self-contained trailers, separate toilet and lavatory facilities for each sex shall be provided in the number and manner specified. They shall be housed in suitable toilet rooms plainly marked by appropriate signs. Toilets shall be installed in separate compartments, each compartment being not less than 3 feet in width and separated from each other and from other areas by proper partitions and by doors wherever necessary for privacy. Hand washing facilities shall be provided either in each toilet room, or, if outside toilet rooms, within 10 feet from the entrance thereto.

125.1062 Same; bathing facilities. [M.S.A. 5.278(92)]

Sec. 62. Approved tub or shower bath compartments shall be provided for each sex. The compartments shall be equipped with proper fixtures, and in connection with and affixed to each shower stall there shall be an individual dressing compartment not less than 2½ by 3 feet in plan and so arranged as to insure privacy. The floor shall be waterproof, and that of the dressing compartment elevated 3 inches above the floor of the shower stall or separated therefrom by a curbing 6 inches in height. Any mats, grids or walkways in bathrooms shall be constructed from nonabsorbent materials.

125.1063 Same; laundry rooms. [M.S.A. 5.278(93)]

Sec. 63. A laundry room properly equipped with laundry trays to accommodate patrons of the park shall be provided. Laundry trays shall not be located in toilet or bathrooms.

125.1064 Same; water supply; heating. [M.S.A. 5.278(94)]

Sec. 64. (a) Adequate supplies of hot and cold water shall be available at all reasonable hours for servicing the fixtures and equipment.

(b) Provision shall be made for adequate space heating and for the heating of water if not supplied from a central heating system.

(c) Buildings housing such facilitites shall be constructed as specified for the service building.

125.1065 Same; facilities required. [M.S.A. 5.278(95)]

Sec. 65. Toilet, urinal, lavatory, bathing and laundry facilities shall be provided according to the following schedule, except that sites plainly designated and exclusively reserved for self-contained trailer coaches need not be counted in calculating the number of toilets, urinals, lavatories, showers or bath tubs, if at least 1 toilet and lavatory for each sex is installed.

Schedule of Required Fixtures

TRAILER SITES		oilets Women	Men's Urinals		atories Women	or	Tubs Women	Double Laundry Trays
Up to 15 sites	. 2	2	1	2	1	1	1	1
16 to 30 sites	. 2	2	1	3	2	2	2	1
31 to 45 sites	. 3	3	2	5	3	3	3	2
46 to 60 sites	. 4	4	2	6	4	4	4	2
61 to 80 sites	5	5	2	7	4	5	5	2
81 to 100 sites	6	6	2	8	5	6	6	2

Where more than 1 double laundry tray is required, the second unit may be an automatic washer.

For parks having more than 100 trailer sites, there shall be provided 1 additional toilet, lavatory and shower or tub for each sex, for each additional 20 trailer sites; 1 additional laundry tray or automatic washer for each additional 60 trailer sites; and 1 additional men's urinal for each additional 100 trailer sites. When 2 or more of the above facilities can be used in such combination as to prevent their use by other persons, credit shall be given for only 1 facility of such combination.

TAXATION OF VESSELS

Act 70, 1911, p. 101; Eff. Aug. 1.

An act regulating the taxation of certain vessels, boats and other watercraft; to prescribe the powers and duties of the secretary of state with respect thereto; to provide for the disposition of the revenue received therefrom; and to prescribe penaltics for violation of the provisions of this act.

The People of the State of Michigan enact:

207.51 Specific tonnage tax on passenger and freight vessels; general tax exemption. [M.S.A. 7.281]

Sec. 1. In consideration of an annual payment to the secretary of state by the owner of any vessel, barge or boat exclusively engaged in the carrying of passengers, holding license for such purpose, or carrying passengers and freight, owned within this state or hailing from any port thereof, and employed in the navigation of international waters or waters of the great lakes, of a sum equal to 20 cents per net ton on the registered tonnage thereof, and the annual payment to the secretary of state by the owner of any "essel, barge or boat exclusively engaged in the carrying of freight only, owned within this state or hailing from any port thereof and employed in the navigation of international waters, of a sum equal to 10 cents per net ton on the registered tonnage thereof and such payment shall be received in lieu of all taxes, and such vessel, barge or boat shall be and the same is hereby made exempt from all further taxation, either state, county or municipal, upon the payment of the sums herein provided. No payment made under the provisions of this section shall be less than \$10.00.

HISTORY: C.L. 1915, 4248;—C.L. 1929, 3573;—Am. 1943, p. 170, Act 133, Imd. Eff. April 13;—Am. 1947, p. 650, Act 348, Eff. Oct. 11;—Am. 1952, p. 232, Act 179, Imd. Eff. April 25;—Am. 1955, p. 116, Act 73, Imd. Eff. May 24;—Am. 1958, p. 211, Act 181, Imd. Eff. Apr. 18.

Title Am. 1943, p. 170, Act 133, Imd. Eff. April 13;—Am. 1947, p. 650, Act 348, Eff. Oct. 11;—Am. 1952, p. 232, Act 179, Imd. Eff. Apr. 25.

207.51a Specific tax on small watercraft; rates; exceptions; license; exemption from general property tax. [M.S.A. 7.281(1)]

Sec. 1a. Every vessel, boat or other watercraft, except those as provided for in section 1, except those registered or licensed under Act No. 84 of the Public Acts of 1929, as amended, being sections 308.1 to 308.51 of the Compiled Laws of 1948, except those owned or operated by the United States or the state, or by local agencies of government of this state or by the boy scouts of America, chiefly for training scouts in seamanship, or canoes of any length powered by motors of 2 horsepower or less, except those propelled solely by muscular power and except those having a length of less than 16 feet, measured from end to end on a horizontal center line from a perpendicular raised from the forward part of the stem, or the foremost part in boats without a stem, to a perpendicular raised from the aftermost part of the vessel, boat or watercraft, which is owned by a resident of the state or in the possession, custody, care or control of a dealer for resale, or hails from any port within this state whether owned by a resident or nonresident shall be licensed by the secretary of state and shall be subject to a specific tax, payable annually by its owner, in an amount equal to the following rates: Overall length 16 feet or over but not over 20 feet, \$5.00; overall length over 20 feet but not over 28 feet, \$15.00; overall length over 28 feet but not over 35 feet, \$25.00; overall length over 35 feet but not over 42 feet, \$35.00; overall length over 42 feet but not over 50 feet, \$45.00; overall length over 50 feet but not over 65 feet, \$75.00; overall length over 65 feet, \$1.00 per foot, and \$1.00 per ton additional for each registered gross ton thereof, which shall exempt it from the general property tax imposed by Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948. This specific tax shall be levied only on boats operating on the Great Lakes and waters connecting thereto navigable in fact by boats subject to this act.

HISTORY: Add. 1947, p. 650, Act 348, Eff. Oct. 11;—Am. 1952, p. 232, Act 179, Imd. Eff. April 25;—
Am. 1955, p. 116, Act 73, Imd. Eff. May 24;—Am. 1963, p. 285, Act 195, Eff. Sept. 6;—Am. 1966, p. 323, Act 240, Imd. Eff. July 11.

207.52 Annual statement of owner; contents, filing, payment of tax; receipt and license plate, attaching; fee. [M.S.A. 7.282]

Sec. 2. The owner of any vessel, barge, boat or other watercraft as defined in section 1 and section 1a shall annually, on or before December 1, file with the secretary of state a verified statement in writing, containing the name, port-of-hail, overall length, tonnage, and the name and address of the owner of such vessel, barge, boat or other watercraft, and shall thereupon pay to said secretary of state the sum of money due to the state as determined by the provisions of sections 1 or 1a. In the case of a vessel, barge, boat or other watercraft not over 65 feet in length and subject to the license fee as provided in section 1a, it shall be unnecessary for such statement to include the tonnage of such vessel, barge or other watercraft. Upon the payment of said amount the secretary of state shall thereupon issue its receipt for vessels specified in section 1 and a license plate in duplicate for the vessels specified in section 1a. Such license plates shall be attached to each side of each vessel, boat or other watercraft in the place and manner to be prescribed by the secretary of state in regulations which it is hereby authorized to issue for the purpose of carrying out the intent of this act and facilitating the collection of the taxes hereby imposed. Upon receipt of an application from a local agency of government of this state upon a form prescribed by him, the secretary of state may issue such plates at a fee of \$1.00 per pair.

HISTORY: C.L. 1915, 4249;—C.L. 1929, 3574; Am. 1943, p. 171, Act 133, Imd. Eff. April 13; Am. 1947, p. 651, Act 348, Eff. Oct. 11;—Am. 1948, Ex. Ses., p. 6, Act 4, Imd. Eff. April 22;—Am. 1952, p. 233, Act 179, Imd. Eff. Apr. 25; Am. 1966, p. 323, Act 240, Imd. Eff. July 11.

207.52a Operation without license, or attaching license; penalties. [M.S.A. 7.282(1)]

Sec. 2a. Any person liable for the tax imposed under section 1a of this act who uses or permits the use of any vessel, boat or other watercraft as in section 1a defined, before such license has been issued and attached to said vessel, boat or watercraft shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00 or imprisoned for not more than 30 days, or both. Any person who uses or operates a vessel, boat or watercraft as defined in section 1a hereof at a time when the license is not attached thereto as provided above or in the regulations prescribed by the secretary of state shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00.

HISTORY: Add. 1947, p. 651, Act 348, Eff. Oct. 11;—Am. 1952, p. 233, Act 179, Imd. Eff. April 25

207.53 Revenues; state waterways fund. [M.S.A. 7.283]

Sec. 3. The revenue received under the provisions of this act shall be turned over to the state treasury and credited to a revolving fund to be known as the Michigan state waterways fund, to be disbursed by the Michigan state waterways commission, subject to the accounting laws of the state, for the purpose of carrying out the laws of this state vested in the commission.

HISTORY: C L 1915, 4250;—C L 1929, 3575;—Am. 1943, p 171, Act 133, Imd. Eff. April 13; Am. 1947, p. 651, Act 348, Eff. Oct. 11;—Am. 1952, p. 233, Act 179, Imd. Eff. April 25;—Am. 1955, p. 116, Act 73, Imd. Eff. May 24,

207.54 Tonnage tax; licenses; issuance, compensation; rules and regulations. [M.S.A. 7.284]

Sec. 4. The secretary of state may authorize any persons, firms, partnerships or corporations to issue licenses on his behalf. Such persons as shall be authorized by the secretary of state to issue licenses shall retain as compensation for issuing licenses 50 cents for each watercraft so licensed and shall remit to the secretary of state the balance of all moneys received from the sale of such watercraft licenses at such times and places as may be specified by the secretary of state, and all such moneys shall be turned over by the secretary of state as soon as practical to the state treasury.

The secretary of state is hereby authorized to promulgate the necessary rules and regulations in carrying out the provisions and enforcement of the provisions of this act, which rules and regulations shall be subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: Add. 1952, p. 233, Act 179, Imd. Eff. April 25; Am. 1954, p. 16, Act 14, Imd. Eff. Mar. 12.

HIGHWAYS

GENERAL HIGHWAY LAW

Act 283, 1909, p. 544; Eff. Sept. 1.

An act to revise, consolidate and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, improvement, maintenance and use of the public highways and private roads, the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; setting and protecting shade trees, drainage, cutting weeds and brush within this state, and providing for the election or appointment and defining the powers, duties and compensation of state, county, township and district highway officials.

The People of the State of Michigan enact:

CHAPTER X. — PENALTIES AND FORFEITURES

230.4 Obstruction of navigable stream, highway drain or water course; forfeiture. [M.S.A. 9.334]

Sec. 4. Whoever shall wilfully obstruct the navigation of any river or stream, which is now or may hereafter be declared a public highway, by felling any tree therein or by putting into any such river or stream any refuse lumber, slabs, or other waste materials, or who shall wilfully obstruct any highway, or fill up or place any obstructions in any ditch constructed for draining the water from any highway, or who shall injure any highway by diverting any creek, or by obstructing any water course or sluice, shall forfeit for every such offense a sum not exceeding 25 dollars.

HISTORY: C.L. 1915, 4461;—C.L. 1929, 4080. This section re-enacts Sec. 5 of Ch. IX of Act 243 of 1881, being How. 1403;—C.L. 1897, 4157.

CHAPTER XV. - DRAINS.

235.1 Drain in public highway; release of right of way, damages. [M.S.A. 9.431]

Sec. 1. Drains may be laid along and within the limits of or across any public highway: Provided, That when it is proposed to construct a drain in whole or in part along a public highway, the owners of the land abutting on the side of the highway along which such drain is proposed to be laid, shall be considered as still owning the fee of such land, and it shall be necessary for the county drain commissioner to obtain from them severally a release of their rights to so much of said highway as is necessary and proposed to be taken for the right of way of said drain, and for all damages on account thereof. In case such release is not executed within the time (a) prescribed in section 4 of chapter 3, such release (b) shall be obtained in the same manner as is provided in this act for obtaining private lands.

HISTORY: C.I. 1915, 4510;—C.L. 1929, 4139. New section.
NOTE: Sec. 4 of Ch. III, above referred to, is undoubtedly Sec. 4 of Ch. III of Act 254 (drain law) of 1807 which has been superseded by Compilers 264.5.
DRAIN CODE OF 1936: Similar provisions, see Compilers \$\$ 280.321-280.327.
DRAINAGE OF HIGHWAYS: This chapter is restricted to drainage of highways by Compilers' 235.7.

235.2 Same; bridges and culverts; construction strength, apportionment and payment of cost, maintenance by property owner. [M.S.A. 9.432]

Sec. 2. When any drain crosses a highway, the necessary bridge or culvert shall be constructed on the center line of the highway as located by survey, and in accordance with plans and specifications which shall be approved by the county, township or district highway commissioner having jurisdiction, or by the state highway commissioner if such road is a trunk line road, and such bridge or culvert shall be of a permanent nature and of sufficient strength to safely carry a 15 ton moving load. The cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of construction of such drain after which such bridge or culvert shall be maintained as a part of the highway: Provided, however, That if such highway is a trunk line road, or is a county road, the state highway commissioner, or the board of county road commissioners, as the case may be, may assume and bear such proportion of the cost as may be agreed on between the drain commissioner and state highway commissioner or board. In such case however the contract for the construction of the bridge shall not be let by the drain commissioner without the written consent of the state highway commissioner or the board of county road commissioners. Any such expense assumed by the state shall be met out of any funds appropriated for the state highway department that may be available therefor; and the proportion of the cost of any bridge to be borne by the board of county road commissioners shall be paid out of moneys in the county road fund not otherwise appropriated. When a drain passes along a highway, there shall be constructed at least 1 bridge or passageway across such drain connecting the highway with each enclosed field and with each farm entrance, which bridge or passageway shall also be charged in the first instance as a part of the construction of such drain, after which such bridge or passageway shall be maintained by the owner of the land.

HISTORY: Am. 1915, p. 137, Act 75, Eff. Aug. 24;—C.L. 1915, 4511;—Am. 1921, p. 668, Act 367, Eff. Aug. 18;—C.L. 1929, 4140. New section.

DRAIN CODE OF 1956. Similar provisions, see Compilers \$\$ 280,321-280,327.

235.3 Open drain in highway; consent of commissioner, location, disposition of earth. [M.S.A. 9.433]

Sec. 3. Before an open drain shall be laid along a public highway, the highway commissioner of the township in which the drain is located shall be consulted and his consent as to the proposed location of the drain shall be obtained in writing, stipulating that no excavation may be made nearer than 1 rod to the center line of the highway and stating what disposition shall be made of all material excavated. It shall be the duty of the drain commissioner to level down all materials placed in the roadway.

HISTORY: Am. 1915, p. 137, Act 75; Eff. Aug. 24;—CL 1915, 4512;—Am. 1917, p. 198, Act 121, Eff. Aug. 10;—CL 1929, 4141. New section.

DRAIN CODE OF 1956. Similar provisions, see Compilers §§ 280.321-280.327.

235.4 Same; drain commissioner to apportion costs. [M.S.A. 9.434]

Sec. 4. The county drain commissioner shall apportion the per centum of the cost of construction of such drain which any township traversed or benefited thereby shall be liable to pay by reason of the benefit to the public health, convenience or welfare, or as the means of improving any highway, and he shall also apportion the per centum of benefits to accrue to any piece or parcel of land by reason of the construction of such drain, over and above the per centum assessed against such township as aforesaid, which per centum of benefits shall be apportioned upon and assessed against the lands benefited according to such assessment of benefits and which apportionments he shall announce at the time and place of letting, as provided in chapter 4. Such assessment of per centum for benefits shall thereupon be subject to review and correction, and may be appealed from in the manner hereinafter provided.

HISTORY: C.L. 1915, 4513;—C.L. 1929, 4142. New section.

NOTE: Ch. 4, above referred to, was undoubtedly Ch. IV of 254 of 1897, being C.L. 1915, 4902-4905, which has been superseded by Chs. VI-IX of Act 316 of 1923, being Compilers' § \$ 266.1 to 269.8.

235.5 Drain across adjacent land; acquisition of right of way, approval of board, deed. [M.S.A. 9.435]

Sec. 5. Whenever it is necessary or more convenient for the proper drainage of any highway in this state that the surplus water be taken onto or across the land adjacent thereto, the highway commissioner of the township in which said highway is situated, may secure the right of way and may open such drain or outlet for the water, and for these purposes may use any highway moneys of the township not otherwise appropriated, and such sums as may be voted for that use by the electors of the township. The highway commissioner shall secure the right of way for any such drain by gift or purchase from the owners of the land to be crossed by such drain; but in case of purchase the purchase price must be approved by the township board before any money be paid thereon. Such right of way shall be acquired by deed duly executed by the owner or owners of the lands sought to be crossed by the said drain, and shall be taken in the name of the township wherein the same is located, and filed in the office of the register of deeds of the county

before any highway money shall be expended in opening such drain outside the highway

HISTORY: C L 1915, 4514;—C L 1929, 4143. This section supersedes Sec. 1 of Act 56 of 1903;—As Am 1905, p. 171, Act 123, Eff. Sept. 16. DRAIN CODE OF 1956 Similar provisions, see Compilers §§ 280.321-280.327.

235.6 Report to township electors, contents; highway drain fund, use of surplus. [M.S.A. 9.436]

Sec. 6. The highway commissioner shall report to the electors of the township at their annual meeting the amount of money expended by him during the year for such highway drainage, specifying the amount expended on each drain. He shall also recommend the raising of such sums as he may deem necessary for opening drains from the highway during the coming year, specifying each proposed drain and the probable amount needed for securing the right of way and opening the same. The money voted for this purpose by the electors of the township shall constitute a special highway drain fund, and shall be used for no other purpose. In case any money be left in the fund, after opening the drain for which it was raised, it may be used in opening any other highway drain in the township, or in cleaning out, when necessary, those already opened.

HISTORY: CI. 1915, 4515;—CI. 1929, 4144. This section re-enacts Sec. 2 of Act 56 of 1903. DRAIN CODE OF 1956: Similar provisions, see Compilers \$\$ 280.321-280.327.

235.7 Construction report, contents, filing; powers limited to highway drainage. [M.S.A. 9.437]

Sec. 7. On the completion by the highway commissioner of any drain constructed under the provisions of this act, it shall be the duty of said highway commissioner to file in the office of the county drain commissioner a detailed report of the construction of such drain, giving the date of construction, the termini and general course thereof, together with a copy of the deed by which the right of way therefor was secured. Nothing in the provisions of the preceding sections shall be construed as giving to highway commissioners power to lay out and construct drains having any other purpose than the drainage of highways.

HISTORY: CL 1915, 4516;—CL 1929, 4145. This section re-enacts Sec. 3 of Act 56 of 1903. DRAIN CODE OF 1956: Similar provisions, see Compilers \$\$ 280,321-280,327.

235.8 Failure to secure right of way; application to drain commissioner, procedure;

jurisdiction. [M.S.A. 9.438]
Sec. 8. In case the highway commissioner cannot secure the right of way across adjacent lands for the construction of any drain by agreement with the owner or owners of the land through which it will pass, he may make under his name of office an application to the drain commissioner of the county in which the proposed drain is situated, to lay out and establish the said drain. Such application shall conform to the law regulating applications for the construction of drains, and shall require no other signature than his own as highway commissioner. Such application shall have the same force and effect and be subject in other respects to the same laws and regulations that govern other applications for the establishment of drains, and shall confer jurisdiction and authority on the county drain commissioner to lay out and establish such drain under and by virtue and in pursuance of the law governing the location and establishment of other drains. It shall not be necessary to submit to the township board or boards of the township or townships crossed or affected by such drain the question of the necessity thereof or whether the same shall be conducive to health, convenience and welfare.

HISTORY: C L 1915, 4517;—Am. 1921, p. 645, Act 354, Eff. Aug. 18;—C L 1929, 4146. This section as originally enacted re-enacted Sec. 4 of Act 56 of 1903.

DRAIN CODE OF 1956: Similar provisions, see Compilers \$\$ 280.321-280.327.

235.8a Detour roads; expense. [M.S.A. 9.439]

Sec. 8a. In case it shall be deemed necessary by the state highway commissioner or by the county road commissioners of any county where such drain or other public improvement is under construction to lay out and maintain a detour road for the safety and convenience of public travel, it shall be lawful, except in cities, that the full cost therefor shall be borne as part of the main project whether it be a drain, a road or a highway project.

HISTORY: Add. 1921, p. 645, Act 354, Eff. Aug. 18;—C L 1929, 4147.

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HIGHWAYS BORDERING ON LAKES OR STREAMS

Act 341, 1927, p. 833; Eff. Sept. 5.

AN ACT to prevent the abandonment, discontinuation or alteration of the course of any public highway which borders upon, or is adjacent to any lake, or to the general course of any stream, or the course of any portion of such a highway, or bordering upon a lake or general course of any stream, by the public authorities of any township, village or city, until after the approval thereof by the circuit court of the county in which said highway is situated; and to provide for a notice of application therefor, and a method of hearing in such court, and the method for review of orders made thereon.

The People of the State of Michigan enact:

247.41 Highway bordering on lake or stream, discontinuance. [M.S.A. 9.51]

Sec. 1. No public highway which borders upon, or is adjacent to any lake, or the general course of any stream, or crosses any stream, nor any portion of such highway so bordering upon a lake or general course of any stream, shall be discontinued by the order or action of any official or officials of any township, city or incorporated village in this state, until an order authorizing the same shall have been made by the circuit court of the county in which such highway is situated in the manner as hereinafter provided.

HISTORY: C.L. 1929, 3950.

247.42 Same; application signed by freeholders. [M.S.A. 9.52]

Sec. 2. Whenever the official or officials having jurisdiction over the highways of any township, village or city in this state shall desire to abandon, discontinue or alter the course of any public highway mentioned in the preceding section, before any action shall be taken by the said public authority or authorities of any township, village or city, an application signed by not less than 7 freeholders of the township, village or city in which such highway is situated, shall be made to the circuit court for the county in which such highway is located, setting forth the particular circumstances of the case, an accurate description of the highway proposed to be abandoned, discontinued or altered, together with the reasons therefor, which application shall be verified by 1 or more of the persons so signing.

HISTORY: C L 1929, 3951.

247.43 Same; hearing; notice, publication, posting, personal service. [M.S.A. 9.53]

Sec. 3. Upon the filing of such application it shall be the duty of the presiding circuit judge to make an order fixing a day of hearing thereon, which shall not be less than 30 days from the date of filing such application. Notice of the pendency of such application and the time of hearing thereon shall be given by publishing the same once in each week for 3 successive weeks, in a newspaper printed and circulated in said county, unless it shall be made to appear by affidavit filed in such case that no such newspaper is published in such county, such notice to contain an accurate description of the highway described in the application and a brief recital of the reasons for its abandonment, discontinuance or alteration. A copy of such notice shall also be posted up in 3 of the most public places in the township, city or village in which such highway is situated, at least 20 days before the date of hearing fixed thereon, and a copy thereof shall be personally served upon the supervisor of the township or the mayor, president or chief executive officer of the township, city or village in which such highway is situated and upon the state highway commissioner at least 20 days before the date fixed for hearing thereon. Proof by affidavit of such publication, posting and service shall be filed in said cause before the date of hearing.

HISTORY: CL 1929, 3952;-Am. 1931, p. 54, Act 40, Eff. Sept. 18.

247.44 Same; court order. [M.S.A. 9.54]

Sec. 4. Upon the day of hearing of such application or any adjournment thereof, testimony shall be taken on the part of the petitioner and any person or persons interested in such application, and if it shall satisfactorily appear to the court that there is no reasonable objection thereto, and that it is necessary for the best interest and welfare of the public that such highway be abandoned, discontinued or altered as to its course, as prayed for in such application, or if it shall appear to the court that such highway or any part thereof should remain as then established, an order shall be made and entered in the record of the court in accordance with such determination.

HISTORY: C.L. 1929, 3953.

247.45 Same; review by certiorari. [M.S.A. 9.55]

Sec. 5. The proceedings therein shall be subject to review by certiorari upon application of any taxpayer of such township, village or city, as the case may be. Notice of such application for review shall be served upon the persons making such application and the supervisor of the township or the mayor, president or chief executive officer of the city or village in which such highway is situate, within 10 days from the date of such order and further proceedings thereon shall be in the same manner provided by law for review by certiorari of judgments of the circuit court.

HISTORY: CL 1929, 3954. CERTIORARI: See Compilers' \$ 650.11 et seq.

247.46 Adjacent defined. [M.S.A. 9.56]

Sec. 6. The term "adjacent" as used herein, shall be construed to include any highway, or portion thereof, lying within 5 rods of the shore of any lake or the general course of

HISTORY: Am. 1929, p. 525, Act 204, Eff. Aug. 28;-C L 1929, 3955.

NOXIOUS WEEDS

Act 184, 1917, p. 367; Eff. Aug. 10.

AN ACT to prohibit the scattering or depositing of noxious weeds, wild grass, or foul seeds along or on any public highway or in any of the streams, lakes or other inland waters within this state and providing penalties for violations.

The People of the State of Michigan enact:

247.51 Noxious weeds or seeds, unlawful use.

Sec. 1. Hereafter it shall be unlawful for any person or persons to intentionally scatter or deposit any noxious weeds, wild grass, or foul seeds along or on any public highway or in any of the streams, lakes or other inland waters within this state.

HISTORY: C.L. 1929, 17114. NOXIOUS WEEDS: Cutting, see Act 66 of 1919, being Compilers' \$\$ 247.61-247.72.

247.52 Penalty.

Sec. 2. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than 5 dollars nor more than 25 dollars, or by imprisonment in the county jail for not less than 5 days nor more than 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: C L. 1929, 17115.

BRIDGES AND CULVERTS

Act 354, 1925, p. 665; Imd. Eff. May 27.

AN ACT to provide for the construction, improvement, repair and maintenance of bridges; to provide for inter-municipal and interstate bridges; to provide for bridges over navigable streams and for their operation; to provide for the construction, improvement and maintenance of bridges over mill races; and to regulate the altering of the stage of water, and the widening and deepening of the channel of watercourses.

The People of the State of Michigan enact:

254.1 Bridges and culverts; construction, improvement and repair; part of road. [M.S.A. 9.1171]

Sec. 1. Bridges and culverts shall be considered in all respects as a part of the road upon which they are, or are proposed to be located. The construction, improvement, repair and maintenance thereof, including adequate approaches and the doing of any act or the performance of any work necessary for the protection thereof, and also including the maintenance and operation of movable span bridges, shall be considered in all respects except as hereinafter otherwise provided, the same as the construction, improving and maintaining of the road upon which any such bridge or culvert is situated, and, except as hereinafter otherwise provided, shall be paid for accordingly.

HISTORY: C.L. 1929, 4522.

Secs. 2-4.
HISTORY: C.L. 1929, 4523-4425; C.L. 1948, 254-2-254.4;—Rep. 1958, p. 84, Act. 77, Eff. Sept. 13.

254.5 Same; powers of commissioner; costs of removal; failure to remove, penalty. [M.S.A. 9.1175]

Sec. 5. The commissioner or commissioners having in charge the construction or maintenance of any bridge shall have the power to provide for the removal of any booms, rafts, logs or other obstruction in the stream and to direct the time in which, and the places where, such booms, rafts, logs or other obstructions in such stream shall be allowed to remain and when the same shall be removed, whenever, in the opinion of such commissioner or commissioners such booms, rafts, logs or other obstructions are a menace to the bridge, or interfere with the construction or maintenance thereof. The person, firm or corporation responsible for any such boom, raft, logs or other obstruction shall be liable for the cost of such removal, to be recovered in an action of trespass on the case. or to be assessed upon any property of such person, firm or corporation when certified by such commissioner or commissioners to the proper township clerk, and any person who shall fail to comply with such directions of the commissioner or commissioners shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not more than 500 dollars or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment, in the discretion of the court. HISTORY: C.L. 1929, 4526.

254.22 Bridge over navigable stream; construction and maintenance. [M.S.A. 9.1192]

Sec. 22. Bridges over any navigable streams shall be so constructed as not to prevent or hinder the navigation of such streams by the usual crafts plying thereon. All such bridges shall be so constructed and maintained as not to interfere with the ordinary uses of said streams for driving logs or floating other materials or boats therein, and shall be constructed and maintained so as to offer and afford reasonable, adequate and proper means for the passage of boats, vessels, sawlogs, floating timber and rafts through the same.

HISTORY: C.L. 1929, 4543. This section supersedes part of Sec. 11 of Ch. XVI of Act 283 of 1909, being C.L. 1915, 4528.

BRIDGE OVER NAVIGABLE STREAM: See Compilers' § 254.51 et seq.

ALTERATION OF WATERCOURSES.

254.25 Permit [M.S.A. 9.1195]

Sec. 25. Hereafter, no person, firm, corporation, or municipality shall artificially alter the stage of water or widen or deepen the channel of any watercourse, except drains established by public authority, without first securing a written permit therefor from the commissioner or commissioners having jurisdiction over all the bridges and culverts on or over said watercourse, or the portion thereof affected by such proposed change.

HISTORY: C.L. 1929, 4546.

254.26 Same; costs of alteration, payment, contract. [M.S.A. 9.1196]

Sec. 26. The person, firm, corporation or municipality to whom any such permit shall hereafter be issued, shall pay the full cost of all bridges and bridge approach work made necessary by such proposed alteration, and every such permit shall require the person, firm, corporation or municipality to whom the same is issued, his, their or its heirs, executors, administrators, successors and assigns, to bear and pay such part of the cost of the reconstruction of such bridges and approaches, or of existing bridges and approaches, and of the maintenance of all such bridges and approaches as the commissioner or commissioners having jurisdiction of the matter shall determine to be caused by such alteration. Such commissioner or commissioners may contract with any such person, firm, corporation or municipality relative to present and future costs of construction, reconstruction, repairs and maintenance of such bridges and approaches.

HISTORY: CL 1929, 4547.

MILL RACES.

254.27 Bridge over race. [M.S.A. 9.1197]

Sec. 27. It shall be the duty of all owners, occupiers, or possessors of mills or other water works, where any race or races appertaining to the same may cross a public highway, to keep and maintain a good and sufficient bridge or bridges over the same, except where said mills have been erected and the races dug previous to the formation of said highway. Such bridges shall be constructed and maintained in compliance with the specifications of the commissioner or commissioners having jurisdiction over the road adjacent thereto.

HISTORY: C.I. 1929, 4548. This section supersedes Sec. 14 of Ch. VIII of Act 283 of 1909, being C.L. 1915, 4428. For other antecedents see "History" note to Ch. VIII following Compilers' § 226.6.

254.28 Same; failure to maintain, duty of commissioner. [M.S.A. 9-1198]

Sec. 28. In all cases where the owner or owners, occupiers, or possessors of any such mill or mills, or other water works, shall refuse or neglect to construct such bridge or bridges, or shall refuse or neglect to keep the same in good repair, it shall be the duty of the commissioner or commissioners having jurisdiction over the road adjacent thereto to proceed forthwith to erect or repair such bridge or bridges, at the expense of the person or persons whose duty it was to have erected or repaired the same.

HISTORY: C.L. 1929, 4549. This section supersedes Sec. 15 of Ch. VIII of Act 283 of 1909, being C.L. 1915, 4429. For other antecedents see "History" note to Ch. VIII following Compilers' § 226.6

254.29 Same; expense, collection. [M.S.A. 9.1199]

Sec. 29. The expense so incurred may be recovered by such commissioner or commissioners in an action of assumpsit, or, at the option of said commissioner or commissioners, may be certified to the clerk of the township in which such mill or water works are situated and, when so certified, shall be assessed upon any property of such owner owners, occupiers or possessors situated in such township and collected in the same manner as other taxes are assessed and collected.

HISTORY: CL 1929, 4550. This section supersedes Sec. 16 of Ch. VIII of Act 283 of 1909, being CL 1915, 4430. For other antecedents see "History" note to Ch. VIII following Compilers' § 226.6.

254.30 "Bridge", "culvert", synonymous. [M.S.A. 9.1200]

Sec. 30. The words "bridge" and "culvert" as used in this act shall be considered as synonymous terms.

HISTORY: C L 1929, 4551.

Sec. 31. (This was a repeal section.) HISTORY: C.L. 1929, 4552;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25. ACT REPEALED: Ch. 8 and Secs. 2, 3, 4 and 10, Ch. 16, Act 283, 1909.

254.32 Bridges excepted. [M.S.A. 9.1202]

Sec. 32. The provisions of this act shall not apply to any bridge across any river forming the boundary between this state and any foreign country.

HISTORY: C.L. 1929, 4553.

Act 398, 1919, p. 698; Imd. Eff. May 13.

AN ACT to authorize the construction of bridges over navigable streams and waters in certain cases, for the continuance of public highways over such water as avenues of public travel; to authorize the levying, spreading and collecting of special taxes and assessments for any such bridge; to authorize the borrowing of money and issuance of bonds under certain restrictions, regulations and limitations; to provide for the recovery by the owners of property or property rights abutting upon or adjoining any such highway of their damages resulting by reason of the construction of such bridge and providing the procedure for recovery of such damages; and to prescribe the powers and duties of certain officers with reference thereto.

The People of the State of Michigan enact:

254.51 Bridge over navigable waters in certain counties; petition. [M.S.A. 9.1211]

Sec. 1. Whenever in any county within this state there are any 2 or more organized townships, or any 1 or more townships and 1 or more villages, or 1 or more townships and 1 or more cities, or any combination of any of them, lying contiguous in such county, through the territory of which extends any public highway which crosses within said county and within or along the boundary line of any such township, village or city, any navigable water or stream, or which intersects with or leads to any highway so crossing such navigable water or stream, any 1 or more of such townships, villages or cities may, by its or their respective legislative bodies, petition the board of supervisors of said county for the construction or reconstruction of a bridge over such stream or water, whereon such highway may be continued as an avenue of public travel between points upon opposite sides of such water or stream. Such petition may be presented at any regular meeting of the said board of supervisors or at any special meeting thereof duly called for the presentation of such petition: Provided, That the provisions of this act shall apply only to counties having a population of 400,000 or more.

HISTORY: C L 1929, 4554.
WAYNE COUNTY: In 1948 this was the only county meeting the population requirement of this act.
BRIDGES OVER NAVIGABLE STREAMS: See Compilers' §§ 46.23 and 254.3.
Authorizing city to construct and maintain boundary line bridge, see Compilers' § 254.91 et seq.

Act 6, 1911, p. 8; Imd. Eff. March 7.

AN ACT to authorize any city within this state, bordering upon any navigable stream which is the boundary line between this state and any other state, in conjunction with any city bordering upon said navigable stream in said other state, to construct and maintain bridges across said stream between said cities.

The People of the State of Michigan enact:

254.91 Interstate bridge across navigable stream; cities, joint action. [M.S.A. 9.1241]

Sec. 1. Any city within this state bordering upon any navigable stream which is the boundary line between this state and any other state, in conjunction with any city situated

in said other state bordering upon said stream, is hereby authorized and empowered at the joint expenses of said cities to construct and maintain bridges and approaches thereto across said stream between said cities at such points as may be agreed upon by the common councils or other governing bodies of said cities, and to enter into contracts with the common council or governing body of the adjoining city of such other state for the construction, maintenance and repair of said bridges.

HISTORY: C.L. 1915, 4862;—C.L. 1929, 4574.
BRIDGES OVER NAVIGABLE STREAMS: See Compilers' § 254.51 and notes thereto.
INTERSTATE BRIDGE: See Compilers' §§ 254.15 and 254.121.

254.92 Same; building prerequisites. [M.S.A. 9.1242]

Sec. 2. Previous to the building of said bridges, highways leading thereto shall be laid out and opened so that access thereto may be had from the common traveled streets in said cities, and authority or permission to build such bridges from the owner or owners of the land to which said bridges shall be attached and over which same shall pass, shall be obtained.

HISTORY: CL 1915, 4863;-CL 1929, 4575.

254.93 Same; authorized city bond issue. [M.S.A. 9.1243]

Sec. 3. The common council or other governing body of the city is hereby authorized to borrow on the faith and credit of said city, such sums of money as may be necessary to carry out the purposes of this act, and to issue the bonds of said city therefor, payable at such time and at such rate of interest as the common council or other governing body of said city shall determine: Provided, however, That if the charter of any such city now in force provides any other method of raising such sums of money such method may be pursued: And Provided further, That the amount of bonds so issued shall not exceed in amount the limit now prescribed by law.

HISTORY: C L 1915, 4864;-C L 1929, 4576.

254.94 Declaration of necessity. [M.S.A. 9.1244]

Sec. 4. This act affects the public safety and shall take immediate effect after its passage by the legislature and signing by the governor.

HISTORY: CL 1915, 4865;-CL 1929, 4577.

REGULATION OF FERRIES

R. S. 1846, Ch. 29.

255.1 Board of supervisors, ferries; grant of license, term. [M.S.A. 9.1371]

Sec. 1. The board of supervisors of each of the counties of this state may grant licenses for keeping ferries in their respective counties, to as many suitable persons as they may think proper, which licenses shall continue in force for a time to be specified therein by said board, not exceeding 10 years.

HISTORY: CL 1857, 1116;—Am. 1859, p. 465, Act 166, Imd. Eff. Feb. 14;—CL 1871, 1325;—How. 1463;—CL 1897, 4298;—CL 1915, 4783;—CL 1929, 4588.

FERRIES: In fourth class cities, see Compilers' § 98.1; in villages, see Compilers' § 67.40.

255.2 Same; rates, hours of service, regulation. [M.S.A. 9.1372]

Sec. 2. The said board when they shall grant any license to keep a ferry, shall order and direct the rates of ferriage which the person licensed may receive, and may from time to time thereafter, during the continuance of such license, alter such rates; and they may also direct what and how many hours each day such person shall attend his ferry.

HISTORY: CL 1857, 1117;—CL 1871, 1326;—How. 1464;—CL 1897, 4299;—CL 1915, 4784;—CL 1929, 4589.

Secs. 3-4.

HISTORY: CL 1857, 1118, 1119;—Rep. 1871, p. 318, Act 189, Eff. July 18. These sections restricted the class of persons to whom licenses might be granted.

255.5 Bond to state, filing. [M.S.A. 9.1373]

Sec. 5. Every person applying for such license shall, before the same be granted, give bond to the people of this state in such penal sum as the said board shall direct, not less than 200 dollars, with so many, and such sufficient sureties as the said board shall direct and approve, upon condition that he will faithfully keep and attend such ferry, with such and so many safe and convenient boats, and so many men to work the same, together with sufficient implements therefor, during the several hours in each day, and at such several rates, as the said board shall from time to time order and direct, which bond shall be filed with the county clerk.

HISTORY: C L 1857, 1120;—C L 1871, 1327;—How. 1465;—C L 1897, 4300;—C L 1915, 4785;—

255.6 Record of license by county clerk; copy delivered licensee. [M.S.A. 9.1374]

Sec. 6. Every such license shall be entered by the county clerk in a suitable book in his office; and a copy of such license, attested by such clerk, shall be delivered to the person licensed.

HISTORY: CL 1857, 1121;—CL 1871, 1328;—How, 1466;—CL 1897, 4301;—CL 1915, 4786;—CL 1929, 4591.

255.7 County line waters, license by either county. [M.S.A. 9.1375]

Sec. 7. Whenever the waters over which any ferry may be used, shall divide 2 counties, a license obtained in either of the counties, shall be sufficient to authorize the person obtaining the same, to transport persons, goods, wares, merchandise and effects, to and from either side of said waters.

HISTORY: C L 1857, 1122;—C L 1871, 1329;—How. 1467;—C L 1897, 4302;—C L 1915, 4787;—

255.8 Violation of bond; penalty, prosecution. [M.S.A. 9.1376]

Sec. 8. Every person who shall violate such bond shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to such fine as the court may adjudge, not exceeding 25 dollars for each offense, and unless such fine, and the costs of prosecution shall be paid within 10 days after such fine shall have been imposed, the prosecuting attorney for the county shall prosecute such bond for the use of the state.

HISTORY: C.L. 1857, 1123;—C.L. 1871, 1330;—How. ''68;—C.L. 1897, 4303;—C.L. 1915, 4788;—C.L. 1929, 4593.

255.9 Ferrying without license; penalty. [M.S.A. 9.1377]

Sec. 9. If any person shall use any ferry for transporting across any river, stream or lake, persons, goods, chattels or effects, for profit or hire, unless authorized in the manner directed in this chapter, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to such fine as the court may adjudge not exceeding 20 dollars for each offense.

HISTORY: CL 1857, 1124;—CL 1871, 1331;—How. 1469;—CL 1897, 4304;—CL 1915, 4789;—CL 1929, 4594.

255.10 County line waters, either county may prosecute. [M.S.A. 9.1378]

Sec. 10. When any offense mentioned in either of the 2 last preceding sections, shall be committed on waters dividing 2 counties, the persons so offending may be prosecuted in either of such counties.

HISTORY: C L 1857, 1125;—C L 1871, 1332;—How. 1470;—C L 1897, 4305;—C L 1915, 4790;—

255.11 Scope of chapter. [M.S.A. 9.1379]

Sec. 11. Nothing contained in this chapter shall affect or impair any right or privilege belonging to any individual or corporation, by virtue of any law of this state.

HISTORY: C.L. 1857, 1126;—C.L. 1871, 1333;—How. 1471;—C.L. 1897, 4306;—C.L. 1915, 4791;—C.L. 1929, 4596.

FERRY COMPANIES: Act 96 of 1871, being C.L. 1915, 8753 to 8766, provided for the incorporation of ferry companies, and was repealed by Act 84 of 1921, C.L. 1929, 10134.

255.12 Ferry landings deemed public highways. [M.S.A. 9.1380]

Sec. 12. Ferry landings shall be deemed public highways, and may be laid out, constructed, maintained, altered, or discontinued in the same manner, and shall in all respects be subject to the same regulations, so far as they may be applicable, as other public highways and bridges; and any public highways along the border of, or terminating upon, the waters of any stream, river, or other body of water across which a ferry is licensed, may be used as a landing for such ferry, subject to such rules and regulations as the authorities having control over highways may establish, and such use shall be deemed a proper use thereof as a highway.

HISTORY: Add. 1871, p. 318, Act 189, Eff. July 18;—C L 1871, 1334;—How. 1472;—C L 1897, 4307;—C L 1915, 4792;—C L 1929, 4597.

SIMILAR PROVISIONS: See Compilers' § 233.14.

Act 150, 1943, p. 190; Imd. Eff. April 14.

AN ACT to authorize the acquisition or purchase of ferry services and necessary equipment therefor by boards of supervisors of the several counties; the transfer to, and the operation and maintenance thereof by, boards of county road commissioners and the acquisition, operation and maintenance thereof by the state highway commissioner in certain cases.

The People of the State of Michigan enact:

255.51 Board of supervisors authorized to acquire ferry service.

[M.S.A. 9.1381(1)]

Sec. 1. The boards of supervisors of the several counties of this state are hereby authorized, by a 2/3 vote of the members elect thereof, to acquire ferry services, and the necessary equipment therefor, as part of the highway system of said counties.

The board of supervisors of any county acquiring such ferry service may from time to time make appropriations for the purchase, operation and/or maintenance of said ferry and ferry services.

255.52 Same; sale or disposal of ferry heretofore owned. [M.S.A. 9.1381(2)]

Sec. 2. The board of supervisors of any county having acquired ferry services as authorized in this act shall give, grant, assign and dispose of any ferry, equipment and services heretofore owned or acquired hereunder to the board of county road commissioners of said county.

255.53 Board of road commissioners, powers; state commissioner, powers. [M.S.A. 9.1381(3)]

Sec. 3. The board of county road commissioners of any such county is hereby authorized to accept any such ferry, equipment and services and to operate and maintain ferry services in such manner and subject to such rules, regulations and tolls as said board of county road commissioners may see fit, from time to time, to fix and adopt. Said services may be furnished free to the public, or charges and tolls may be exacted. If charges and tolls are exacted, they shall be on the basis of cost, including capital investment, maintenance, operation, interest on investment, and depreciation.

In the event the highway adjacent to said ferry is acquired by the state highway commissioner of the state of Michigan, then and in that event said state highway commissioner is authorized to acquire, own, operate and maintain said ferry and ferry services in the place and stead of said board of county road commissioners and with like rights and authority.

Sec. 4. (This was a severing clause section.) HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

THE DRAIN CODE OF 1956

AN ACT to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, and such structures and mechanical devices as will properly purify the flow of such drains; to provide for flood control projects; to provide for water management, water management districts and subdistricts, and for flood control and drainage projects within such districts; to provide for the assessment and collection of taxes; to prescribe penalties for violations of the provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 1.

DRAINS.

280.1 Drain code of 1956, short title. [M.S.A. 11.1001]

Sec. 1. This act shall be known and may be cited as "the drain code of 1956".

280.2 Drains, location, establishment, consolidation, purification, branches. [M.S.A. 11.1002]

Sec. 2. Drains may be located, established, constructed and maintained, the drains and watercourses may be cleaned out, straightened, widened, deepened, extended, consolidated, relocated, tiled and relocated along a highway, or there may be provided for the same structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or 1 or more branches may be added thereto, whenever the same shall be conducive to the public health, convenience and welfare.

HISTORY: Am. 1956, 1st Ex. Ses., p. 9, Act 5, Imd. Eff. June 23:—Am. 1965, p. 309, Act 194, Imd. Eff. July 15.

280.3 Drain defined. [M.S.A. 11.1003]

Sec. 3. The word "drain", whenever used in this act, shall include any creek or river, any watercourse or ditch, either open or closed, any covered drain, any sanitary or any combined sanitary and storm sewer or storm sewer or conduit composed of tile, brick, concrete, or other material, any structures or mechanical devices, that will properly purify the flow of such drains, any pumping equipment necessary to assist or relieve the flow of such drains and any levee, dyke, barrier, or a combination of any or all of same constructed, or proposed to be constructed, for the purpose of drainage or for the purification of the flow of such drains.

HISTORY: Am. 1958, p. 95, Act 87, Imd. Eff. Apr. 11.

280.4 Commissioner defined. [M.S.A. 11.1004]

Sec. 4. Whenever the word "commissioner" is used in this act it is intended and shall refer to the county drain commissioner.

280.5 Drainage district a body corporate. [M.S.A. 11.1005]

Sec. 5. Any drainage district heretofore or hereafter established shall be a body corporate with power to contract, to sue and to be sued, and to hold, manage and dispose of real and personal property, in addition to any other powers conferred upon it by law. The foregoing provision shall apply to all drainage districts including those established under chapters 20 and 21 of this act or under chapters 18 and 18a of Act No. 316 of the Public Acts of 1923, as amended.

HISTORY: Add. 1960, p. 96, Act 96, Imd. Eff. Apr. 26.

280.10 Drains, location. [M.S.A. 11.1010]

Sec. 10. Drains may be laid or extended into or along or from any lake or other body of water surrounded wholly or in part by a swamp, marsh or other low lands for the general purpose of drainage contemplated by this act, but not so as to impair the navigation of any navigable river.

Meetings, adjournment by public announcement.

Any meeting called pursuant to the provisions of this act, unless otherwise provided, may be adjourned from time to time by public announcement thereof and no advertisement of the time of said adjournment shall be required.

Drains entirely within municipality; jurisdiction of commissioner, consent.

The commissioner shall have jurisdiction over all established county drains within his county, heretofore established and now in the process of being established except that in the case of a drain located or to be located entirely within a single city or village, such jurisdiction shall be consented to by resolution of the governing body of such city or village.

Same: payment of bonds, drain orders, deficiency.

If any drainage project lies entirely within the limits of a municipality less than a county, such municipality, by its governing body, shall have the power to pledge the full faith and credit of the municipality for the payment of bonds or drain orders issued in connection with such project, and if a deficiency exists in the drain fund or sinking fund for said drain 1 year after the last installment of the deficiency assessment provided for in section 280 of this act, shall have become delinquent, such municipality shall forthwith advance to the county drain fund the amount of such deficiency and thereafter all receipts of such drain fund from the sale of delinquent tax lands, which had been assessed for said drain, shall be paid to the municipality within 90 days after receipt by the county treasurer.

HISTORY: Am. 1963, p. 368, Act 228, Eff. Sept. 6.

280.11 Easement, right of way, release of damages, recording. [M.S.A. 11.1011]

Sec. 11. Any easement, right of way or release of damages obtained in connection with any proposed drain or drains shall, following the expiration of 30 days after the day of review, be recorded in the office of the register of deeds: Provided, That in any drain proceeding in which an injunction or a writ of certiorari has been issued but not determined within 30 days after the day of review, the recording shall be within 30 days after a determination sustaining the drain.

All easements, rights of way or releases of damages hereafter obtained in connection with any existing drain shall be recorded in the office of the register of deeds when said drain is being cleaned, relocated, deepened, widened, straightened, extended, tiled or consolidated

pursuant to law.

The recording required by this section shall be made by the drain commissioner or the drainage board, as the case may be, and the cost of such recording paid by the drainage district.

CHAPTER 2.

COUNTY DRAIN COMMISSIONER

280.21 County drain commissioner; election, term, oath, bond; abolition of office. [M.S.A. 11.1021]

Sec. 21. At the general election to be held in November, 1968, and every fourth year thereafter, a county drain commissioner shall be elected in every county having a drain commissioner by the qualified electors thereof. The term of office of the commissioner shall begin on January 1 next following his election and continue for a period of 4 years thereafter and until his successor is elected and qualified.

The county drain commissioner when elected and before entering upon the duties of his office shall execute and file with the county clerk a bond to the people of the state of Michigan in the penal sum of \$5,000.00, with 2 or more sufficient sureties to be approved before filing by the county clerk, county treasurer and judge of probate, conditioned upon the faithful discharge of the duties of his office. The board of supervisors of any county may fix the bond to be required of the commissioner at a different amount when, in its judgment, the same may be desirable. The board of supervisors of any county now or hereafter having a population of less than 12,000, by resolution of a majority of the members elect, may abolish the office of county drain commissioner and transfer the powers and duties of such office to the board of county road commissioners.

HISTORY: Am. 1963, 2d Ex. Ses., p. 23, Act 13, Imd. Eff. Dec. 27;—Am. 1965, p. 11, Act 9, Eff. Mar. 31, 1966.

280.22 Same; incumbent to hold over. [M.S.A. 11.1022]

Sec. 22. All commissioners holding such office when this act takes effect shall continue to be such commissioners until their respective successors are elected and qualified in accordance with the provisions of the foregoing section.

280.23 Same; jurisdiction; drains in more than 1 county; outlet only in another county. [M.S.A. 11.1023]

Sec. 23. The commissioner shall have jurisdiction over all drains within his county, including those heretofore established and now in process of construction. Drains extending into more than 1 county, or affecting lands in more than 1 county, shall be established and constructed in accordance with the provisions of this act regulating the establishment and construction of drains traversing more than 1 county or affecting lands in more than 1 county. Nothing in this act shall be construed as depriving a drain commissioner of jurisdiction or as making any drain an intercounty drain, merely because a drain extends into another county for the purpose of securing a proper outlet and not for the purpose of draining any lands in the other county: Provided, such extension is approved by the drain commissioners and the board of supervisors of each affected county. The portion of any such drain extending into another county shall not be considered in determining the number of signers required to a petition to locate, establish and construct.

HISTORY: Am. 1958, p. 70, Act 64, Imd. Eff. Apr. 9.

280.24 Deputy drain commissioners; appointment, revocation, assignment of duties; death of commissioner. [M.S.A. 11.1024]

Sec. 24. Any commissioner may appoint a deputy or deputies, as the board of supervisors may approve, and revoke such appointment at pleasure, such appointment to be made in writing and filed with the clerk of the county; and whenever the commissioner shall be unable to execute the duties of his office, the deputy or deputies shall execute or assist in the execution of the duties of the county drain commissioner assigned to him by the county drain commissioner. The deputy or deputies, when so appointed, shall file a bond with and to be approved by the commissioner in a sum not to exceed \$5,000.00, conditioned upon the faithful discharge of his duties. In the event of the death of the commissioner during his term, the deputy commissioner shall be vested with all of the powers and charged with all of the duties of a commissioner until one is duly appointed or elected.

HISTORY: Am. 1963, p. 296, Act 209, Eff. Sept. 6.

280.25 Same: liability of commissioner and bondsmen; liability of drainage district. [M.S.A. 11.1025]

Sec. 25. The commissioner and his bondsmen shall be liable for all the acts and defaults of the deputy or deputies when appointed as herein provided. After entry of the order designating drainage districts as provided in section 54 and section 105 of this act, the drainage district as designated shall be responsible for and liable for all acts and defaults of such commissioner and his deputy or deputies, except for acts of malfeasance or misfeasance.

Public liability or other insurance.

The board of supervisors may adopt resolutions providing that public liability or other insurance may be purchased at the expense of the county to cover such potential liabilities of the various drainage districts under the supervision of the county drain commissioner.

HISTORY: Am. 1962, p. 151, Act 152, Imd. Eff. May 9.

280.26 Same; salary, expenses, reports to commissioner. [M.S.A. 11.1026]

Sec. 26. Each deputy commissioner shall receive such salary or compensation as the board of supervisors shall allow and all traveling expenses actually and necessarily spent by him in the discharge of his duties as prescribed in this act; he shall make a report to the commissioner of all work performed by him on or before the first Saturday of each month and an annual report on or before the second Wednesday in September of each year.

280.27 Supplies, blank applications, office, location, hours. [M.S.A. 11.1027]

Sec. 27. County clerks, or the board of auditors in counties having such boards, shall be authorized, and it shall be their duty to procure, at the expense of their respective counties, the necessary books, blanks and stationery for the use of said commissioners; and each commissioner shall furnish upon request blank applications or petitions to any person who may desire to file the same under this act. The office of the commissioner shall be furnished at the expense of the county by the board of supervisors, or by the board of auditors in counties having such boards, and shall be maintained at the county seat, in which said office said commissioner shall be and remain at least 1 day per week, such day to be painted on the door of the commissioner's office and printed or stamped on his stationery.

280.28 Commissioner; salary, expenses, payment. [M.S.A. 11.1028]

Sec. 28. Each commissioner shall receive an annual salary to be paid as other county officers are paid, the amount thereof to be fixed by the board of supervisors at its regular October session in the year 1968, and every 4 years thereafter, in the same manner as the salaries of other county officers are fixed, and in addition thereto shall be allowed his actual necessary expenses, including traveling expenses incurred in the discharge of the duties of his office, and also including all actual and necessary expense for clerk hire and recording by the board of supervisors or board of county auditors to be paid by the county. Such expense account shall be an itemized account and verified by his oath taken before a proper officer. The amounts herein authorized to be paid to the commissioner for his salary and expenses shall be in full for all services rendered by him and all expenses incurred in the performance of the duties of his office.

HISTORY: Am. 1965, p. 11, Act 9, Eff. Mar. 31, 1966.

280.29 Surveys, books, equipment, field notes, profiles, blueprints, specifications, estimates, engineers. [M.S.A. 11.1029]

Sec. 29. The county shall furnish the commissioner with all necessary books and papers for use in the survey, and such office equipment as shall be necessary in making profiles, blueprints and specifications in any drainage district. The surveyor or engineer shall file with the commissioner all field notes, blueprints, profiles, estimates and all other papers in his possession relating to said drain. The board of supervisors of any county may employ an engineer who shall perform under this act the services required to be performed by an engineer or surveyor.

280.30 Drainage district; financial statement, records, prerequisites to tax spread. [M.S.A. 11.1030]

Sec. 30. It shall be the duty of each commissioner to make and keep a full financial statement of each drainage district. The commissioner shall also make and keep in his office in a book to be provided for that purpose a complete record of each drainage district, which record shall include a copy of the application for laying out and designating such district, of the petition for the drain, of the minutes of the survey, of the releases of the right of way where the same have been released, of the orders of determination of the necessity for and of the establishment of the drain, and of the apportionment and assessment of benefits therefor. Where special commissioners have been called, it shall also contain a copy of the application to the probate court, of the return of the special commissioners and of all other papers in his office necessary to show a complete history of each drainage district, all of which said original papers shall then be enrolled and filed in the office of the county drain commissioner. No drain tax shall be spread until all the records required have been deposited and filed in the office of the county drain commissioner.

280.31 Annual report, financial statement to supervisors; reports to director of agriculture; liability on bond. [M.S.A. 11.1031]

Sec. 31. Every commissioner shall make a report to the board of supervisors at their annual meeting in October of each year of all drainage districts laid out, all drains constructed, finished or begun under his supervision during the year ending October first, and he shall also render to them a full financial statement of each drainage district. He shall also make such reports and furnish such information as the director of agriculture shall request. The reports required by this section shall include an itemized statement of all orders issued on account of each and every drainage district and a debit and credit balance of such district fund. The commissioner shall be liable on his bond for any gross neglect of duty or any misapplication of moneys coming under his control as commissioner.

280.32 Drain commissioner; social security; agreement for coverage; appropriation. [M.S.A. 11.1032]

Sec. 32. The board of supervisors of each county having a drain commissioner may adopt a resolution authorizing the county to enter into an agreement with the secretary of health, education and welfare pursuant to the provisions of Act No. 205 of the Public Acts of 1951, as amended, being sections 38.851 to 38.870 of the Compiled Laws of 1948, to allow the drain commissioner and all the employees of the drain commissioner's office to obtain the benefits provided by the federal social security act. The funds necessary for this coverage shall be appropriated from the county general fund or from the revolving drain fund.

HISTORY: Add. 1966, p. 130, Act. 109, Imd. Eff. June 22.

CHAPTER 3.

COUNTY DRAINAGE DISTRICTS.

280.51 County drainage districts, application, signers, eligibility, sufficiency; deposit for costs. [M.S.A. 11.1051]

Sec. 51. Before a commissioner takes any action on any application to locate, establish and construct any drain, there shall first be filed with him an application to lay out and designate a drainage district with reference to a proposed drain therein; such application shall tentatively describe the location and route of such proposed drain. The application shall be signed by not less than 10 freeholders of the township or townships in which such proposed drain or the proposed lands to be drained thereby may be situated: Provided. That 5 or more of said signers shall be the owners of land liable to an assessment for the construction of such proposed drain: Provided further. If it shall appear to the drain commissioner on filing an application to lay out and designate a drainage district that said district might not include 20 freeholders whose lands would be liable for such

assessment, in such case such application shall be received if any one of the signers is a freeholder liable to an assessment for the construction of such proposed drain. The eligibility of the signers to such application shall be determined by the drain commissioner according to their interest of record in the office of the register of deeds, in the probate court or in the circuit court of the county in which such lands are situated at the time such application is filed. The board of supervisors, by resolution, may instruct the drain commissioner to refuse any application to lay out a drainage district unless a cash deposit, sufficient to cover the preliminary costs, accompanies the application. If the drain is completed, the cost advanced shall be returned to the depositor or his personal representative out of the first tax collections on the drain. If uncompleted, any excess above costs shall be so returned. In lieu of an application signed by freeholders as aforesaid, such an application may be signed solely by the board of health of the county if the proposed drain is necessary for the public health of any part of the county, or may be signed solely by any city, village or township when duly authorized by its governing body, if the proposed drain is necessary for the public health of such municipality and if such municipality will be hable for an assessment at large against it for a percentage of the cost of the proposed drain. The entry of an order designating a drainage district, as hereinafter provided, shall be deemed a determination of the sufficiency of such application.

HISTORY: Am. 1957, p. 135, Act 119, Imd. Eff. May 24.

280.52 Same; practicability of drainage; survey, determination; tax delinquency. [M.S.A. 11.1052]

Sec. 52. Upon filing of such application for a new drainage district, the commissioner shall immediately cause a survey to be made by a competent surveyor or engineer to determine the area which would be drained by the proposed drain, and the route and type of construction of the drain or drains most serviceable for that purpose. He shall not be limited in such determination to the route described in the application. In any county having a board of county auditors, no survey shall be ordered without the approval of such board but if the application shows, or it is determined thereafter, that any such proposed drainage district will affect lands in more than 1 county, the commissioner shall proceed under the portions of chapter 5 of this act relating to intercounty drains, and in such case the approval of the board of county auditors shall not be required. If upon the survey, or if before the survey is made, the commissioner determines that the proposed drain is impractical, he shall take no further action thereon but shall, in writing, notify the persons who delivered the application to him, of that fact, and his reasons for making his determination. If upon the survey the commissioner determines the proposed drain to be practical, he shall lay out a drainage district, prepare and file in the office of the drain commissioner a description of the drainage district, which may be described by its boundaries of highways and streets and tracts and parcels of land including therein all highways and streets, townships, cities and villages or by a description of all tracts or parcels of land, highways, townships, cities and villages which would be benefited by the construction of the proposed drain, and which would be liable to an assessment therefor, should the drain be constructed as hereinafter provided. The commissioner shall obtain from the county treasurer a statement showing as near as may be the amount of taxes and special assessments levied against the lands in the proposed drainage district on the tax rolls for the 3 years next preceding, and the amount of such taxes and assessments remaining unpaid, and if it appears from the statement that 331a% or more of the lands in the proposed drainage district have been returned as tax delinquent and still remain delinquent, no further action shall be taken.

HISTORY: Am. 1961, p. 352, Act 212, Imd. Eff. June 6.

280.53 Surveyor; duties as to county drain, delivery of papers to commissioner; route. [M.S.A. 11.1053]

Sec. 53. The surveyor or engineer authorized to make the survey shall ascertain the size and depth of the drains and he shall preserve all minutes with reference thereto. He shall prepare plans, drawings and profiles thereof, together with a computation of the

yards of earth to be excavated, the amount of tile or pipe to be used and the necessary bridges and culverts or fords to be built in constructing such proposed drain, and his estimate of the cost of such construction, and where practicable shall recommend the leveling of the spoil banks. He shall thereupon lay out a drainage district, which district may be described by its boundaries of streets or highways or tracts or parcels of land, or by a description of all tracts or all parcels of land, including therein all highways, townships, counties, cities and villages which would be benefited by the construction of the proposed drain, all of which he shall deliver to the commissioner. The surveyor or engineer shall not be limited to the route described in the application but may recommend a route and type of construction for the drains he considers most serviceable for draining the area involved.

HISTORY: Am. 1961, p. 353, Act 212, Imd. Eff. June 6.

280.54 Order designating county drainage district; contents, notice of filing, publication. [M.S.A. 11.1054]

Sec. 54. The commissioner shall prepare and file in his office his order designating a drainage district and give it a name or number and describe therein the boundaries of the district by streets or highways or parcels of land for each of the several tracts or parcels of land included therein and the counties, townships, cities, villages and state trunk line highways which would be benefited by the construction of the drains and would be liable to assessment therefor, also a description of the drains as determined by him, showing the beginning, route, terminus, type of the proposed construction and the estimated cost of such proposed construction. The commissioner shall give notice of filing the order designating a drainage district by publishing a notice in a newspaper of general circulation in the area where the drainage district boundaries are located, which notice shall give a general description of the route of the proposed drain or drains and of the drainage district as shown by the order.

Same; amendment of name or number of drain, procedure.

At any time after the order designating a drainage district and giving it a name or number has been filed in the office of the drain commissioner, the order may be amended as to the name or number of the drain at any time by presenting to the drain commissioner of the county a petition signed by no less than 5 land owners whose land is traversed by the drain, which petition shall state the then present name or number of the drain and the change or changes to be made in the name or number. Upon receipt of such petition, and if in the drain commissioner's opinion it is to the best interest of all concerned that the name or number be changed, he shall make his order amending the name or number, and thereafter the drainage district shall be known by such name or number. The drain commissioner shall forthwith post such signs upon the drain as he may deem advisable for public notice of the new name or number.

HISTORY: Am. 1961, p. 353, Act 212, Imd. Eff. June 6.

CHAPTER 4.

COUNTY DRAINS.

280.71 Petition to establish, filing, signers, eligibility, certificate of county treasurer, form; municipally-signed petition. [M.S.A. 11.1071]

Sec. 71. After a drainage district has been established and the order therefor filed with the county drain commissioner, a petition to locate, establish and construct a drain may be filed with the commissioner having jurisdiction of the lands designated in such order as constituting the drainage district. Such petition shall ask for the location, establishment and construction of the drain or drains, or any part thereof, as described in said order. The petition shall be signed by a number of freeholders in said drainage district whose lands would be liable to an assessment for benefits, equal to 2/3 the number of freeholders whose lands would be traversed by the drain or drains applied for or abut on any highway or

street along the side of which such drain extends, between the point where such drain enters such highway and the point where it leaves such highway and which lands are within the drainage district. Such petition shall be accompanied by a description of the land in said district owned by each signer and by a certificate of the county treasurer as to payment of taxes and special assessments against such lands. Such certificate shall be in substantially the following form:

I hereby certify that there are no taxes or special assessments unpaid against any of the lands described in the annexed list according to the records of the county treasurer's office for the past 3 years, except as follows:

Description

Year

Tax or assessment

Amoun

The name of any signer as to whose land such certificate shows taxes or assessments unpaid for 3 years shall not be counted. The eligibility of the signers to such petition shall be determined by the commissioner according to their interest of record in the office of the register of deeds in the probate court or the circuit court of the county in which such lands are situated at the time such petition is filed. In determining the number of owners whose lands are traversed by such drain, or abut thereon as hereinbefore prescribed, the drain commissioner shall investigate the records of the register of deeds, of the probate court and of the circuit court of the county, and shall make diligent inquiry in the community, including inquiry of anyone in possession of all of such lands so traversed or so abutting as to the ownership thereof. In lieu of a petition signed by freeholders as aforesaid, the petition may be signed solely by a city, village or township when duly authorized by its governing body, or by any combination of such municipalities, if such petitioning municipality or municipalities will be liable to assessments at large for at least 66% of the total amount to be assessed for the cost of the proposed drain. In the event of such a municipally signed petition, then the foregoing provisions of this section, other than the first 2 sentences thereof, shall not be applicable.

280.72 County drain; board of determination, appointment, meeting, compensation. [M.S.A. 11.1072]

Sec. 72. As soon as practicable after the filing of such petition, the commissioner authorized to act thereon may, if not disqualified under section 381 of this act to make the apportionment of benefits, appoint a board of determination composed of 3 disinterested freeholders. In case the commissioner is disqualified or chooses not to appoint the board of determination, such commissioner shall forthwith file a copy of such petition with the chairman of the county board of supervisors, together with a statement signed by him, showing that he is disqualified or chooses not to act in appointing a board of determination. Upon receiving a copy of such petition and certificate aforesaid, the chairman of the county board of supervisors shall, if not privately interested, as soon as practicable, appoint a board of determination composed of 3 disinterested freeholders and shall immediately notify the drain commissioner of the names and addresses of those appointed. In case the chairman of the board of supervisors has a private interest in the proceedings, the drain committee of the board of supervisors shall then appoint the board of determination. All members of boards of determination shall be residents of the county but not of any township affected by such drain, and any one or more may be members of the board of supervisors of said county, and a meeting thereof shall be called within the drainage district at some convenient place to be designated by said drain commissioner, but if any of those so appointed to the board of determination fail or refuse to serve the drain commissioner shall appoint a successor or successors. The compensation of each member of said board of determination shall be fixed at the rate of \$8.00 per diem with no additional allowance for mileage, but the board of supervisors of any county may increase the per diem compensation of members of the board of determination.

Meeting; notice, first class mail, expense.

The drain commissioner shall give notice of the time and place of such meeting by publication in a newspaper of general circulation in the county at least 10 days before such meeting. Notices shall also be served on the county clerk and on the clerk of each township,

city and village in the district personally or by registered mail at least 10 days before such meeting. The drain commissioner also shall send notice by first class mail of the time and place of such meeting, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment roll as owning land within the special assessment district, at the address shown on such roll, and if no address appears thereon, then no notice need be mailed to such person. The drain commissioner shall make an affidavit of such mailing and shall recite therein that the persons to whom such notice was mailed, constitute all of the persons whose names and addresses appear upon such tax rolls as owning land within the particular special assessment district, and such affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any such notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding and/or tax, if notice has been sent by first-class mail as provided in this section. All expense of notification shall be paid by the drainage district when created.

Determination of necessity; tax statement; apportionment of costs, appeal; first order of determination, filing.

At the time and place fixed in said notice said board shall meet, elect a chairman and secretary and proceed to determine the necessity of said proposed drain and whether the same is necessary and conducive to public health, convenience and welfare. At such meeting all persons owning lands liable to assessment for benefits, or whose land shall be crossed by said drain or any district or municipality affected may appear for or against said drain proceeding. The board of determination, if they deem it necessary, shall require the county drain commissioner to obtain from the county treasurer a statement showing as near as may be the amount of taxes and special assessments levied against the lands in the proposed drainage district on the tax rolls for the 3 years next preceding, and the amount of such taxes and assessments remaining unpaid, and if it shall appear from such statement that 25% or more of the taxes are unpaid on said lands, no further action shall be taken. After hearing the evidence so offered as herein provided, the board shall make their determination upon the necessity of such drain and whether the same is necessary and conducive to public health, convenience or welfare. If the said board shall find by a majority vote of the whole number of members that the said drain is not necessary and conducive to public health, convenience or welfare, they shall file with the commissioner an order dismissing the petition, and no further petition for said drain shall be entertained within 1 year after such determination. If said board by a majority vote as aforesaid, shall find the said drain so proposed to be necessary and conducive to the public health, convenience or welfare, they shall make their order to that effect and file the same with the said commissioner. If the board shall find that the construction of the proposed drain is necessary for the protection of the public health in 1 or more cities, villages and townships, the order shall set forth such determination giving the names of such municipality or municipalities receiving benefit for health; and in that case, the board may determine that the whole cost thereof, except that which may be apportioned for benefits to highways, shall be apportioned to such townships, cities and villages at large, and it shall not be necessary. in any subsequent order or notice to describe or refer to any lands included in or comprising the drainage district. The governing body of any such township, city or village may appeal from the order of said board, thus fixing benefits, to the probate court having jurisdiction in the county wherein such township, city or village may be located. Upon the receipt of the order of said board, the commissioner shall make his first order of determination in writing, giving the name or number of the drainage district, and shall establish the commencement, route, terminus and type of construction of said drain, a copy of which order he shall within 15 days file in his office.

HISTORY: Am. 1957, p. 64, Act 61, Imd. Eff. May 20;—Am. 1963, p. 312, Act 215, Imd. Eff. May 17;—Am. 1963, p. 369, Act 228, Eff. Sept. 6, Am. 1965, p. 219, Act 138, Eff. Mar. 31, 1966.

280.73 Release of right of way and damages. [M.S.A. 11.1073]

Sec. 73. Within 60 days following the entry of the first order of determination the commissioner shall endeavor to secure from the owners of each parcel or tract of land to be traversed or damaged by said proposed drain or drains a release of right of way and all damages on account thereof.

280.74 Same; acknowledgments, oaths, form, area, signature of wife, resolution covering street or public place; open drain. [M.S.A. 11.1074]

Sec. 74. Commissioners may take acknowledgments of releases of right of way and administer oaths in all proceedings in any way pertaining to drains under this act. A simple form of release of right of way and damages that shall set forth by reference to the survey of the drain, or by other convenient description, the particular land to be conveyed and signed and acknowledged by the person having the right to convey, shall be deemed a sufficient conveyance under the provisions of this act. All releases for rights of way shall be deemed to include sufficient ground on each side of the center line of such drain for the deposit of the excavations therefrom. It shall not be necessary for the wife to sign the release of right of way unless she has an interest in the land other than her inchoate right of dower. Whenever a portion of a drain shall be located within any street, highway or public place, then a resolution adopted by a majority vote of the governing body having jurisdiction over such street, highway or public place granting leave to construct such drain therein, designating the place to be traversed by said drain, shall be a sufficient release of the right of way, and shall be deemed a sufficient conveyance under this act, and said governing body may permit the construction of an open drain if such consent be set forth in such resolution.

280.75 Condemnation proceedings; special commissioners, application for appointment, contents. [M.S.A. 11.1075]

Sec. 75. If all persons whose lands would be traversed or damaged by the proposed drain or drains shall not have executed a release of the right of way, and all damages on account thereof, within 60 days after the entry of the first order of determination, the commissioner shall, as soon as practicable, make application to the probate court of the county in which such lands are situated, for the appointment of 3 special commissioners, who shall be disinterested resident freeholders of the county, but not of the township or townships affected by such drain, to determine the necessity for the taking of private property for the use and benefit of the public, and the just compensation to be made therefor. Such application shall be in writing, and shall set forth:

First. The fact that a petition for a drain was made and when, filing with said court a certified copy of such petition, also giving the route, survey and specifications of said drain as set forth in the first order of determination;

Second. That an order determining the necessity for such drain was made by the commissioner or drainage board, giving the time when such order was made, in accordance with such route, survey and specification, as above set forth;

Third, (1) The several descriptions or tracts of land with the names of the owner or owners of every such tract who have refused or neglected to execute a release of right of way and damages in any way arising or incident to the opening or maintaining the said proposed drain (2) the several descriptions or tracts of land owned by any minor, incompetent person, unknown persons or nonresidents of the township or townships, the execution of a release of right of way and damages for which have been neglected or refused; (3) it shall not be necessary to set forth in said application to the probate court the names of the several owners nor the description of the several tracts or parcels of land liable to an assessment for benefits, in case the drain applied for should be located and established, except those who have not released the right of way and through whose lands the drain passes; nor shall the same be included in the citation issued from the probate court.

280.76 Same; hearing, waiver of errors, lands of minors and incompetent persons. [M.S.A. 11.1076]

Sec. 76. The court to whom such application is made shall make an examination at the time of such application of all the proceedings of the commissioner so far as had, and if such proceedings be found to be in accordance with the statute, such court shall at once appoint a time and place of hearing upon the application, which time shall be fixed not less than 13 nor more than 40 days thereafter, and the court shall issue a citation to all persons whose lands are traversed by such drain, who have not released the right of way, and all damages on account thereof, to appear at the time and place designated in said citation. and be heard with respect to such application, if they so desire, and show cause, if any there be, why said application should not be granted, and any error or errors that may have been made in any of the proceedings thus far had shall be raised and taken advantage of at such time and before such court, and if not so raised and taken advantage of at such time and before such court shall be deemed to have been waived by all persons cited to appear under this notice. If any person on whom such service is to be made is a minor, under the age of 14 years, or an incompetent person, and resides in this state, such service shall be made as herein provided on his guardian, or if none, then on the person who may for such purpose be appointed special guardian and also on the person who has the care of, or with whom such minor or incompetent person resides. In case any person whose lands are traversed by said drain is a minor or an incompetent person and has no guardian, the said court or the judge of said court shall appoint a special guardian, to appear for and attend to the interests of such minor or incompetent person, and all notices to be served in the progress of the proceedings shall be served on such special guardian.

280.77 Same; citation, contents, addressed to owners. [M.S.A. 11.1077]

Sec. 77. The citation shall recite so much of the premises as will show jurisdiction, giving a description of the land traversed by such drain, and in the case of resident owners who reside upon the premises traversed by said drain shall be addressed to such owners by name: in the case of nonresident owner or owners not residing upon the land traversed, it shall be addressed to the nonresident owner or owners, but it shall not be necessary to name such owner or owners. It shall describe the drain by its commencement, terminus and general course, and shall set forth that land owned by the persons to whom it is addressed will be crossed by such drain and may be subject to assessment for its construction, and that a description and survey of such drain is on file with the court issuing such citation and describe the land to be taken.

280.78 Same; citation, service, proof, mailing, publication. [M.S.A. 11.1078]

Sec. 78. Such citation shall be personally served by the commissioner or some other competent person upon every person whose lands are traversed by the said drain, who has not released the right of way and all damages on account thereof, and who resides on any land to be traversed by said drain, by delivering to him or her a copy thereof. In all cases of personal service at least 10 days shall intervene between the day of service and day of hearing, and the court issuing such citation shall require proof of such service by affidavit showing the time, place and manner of such service. Citations shall be served upon a township by leaving a copy thereof with the supervisor or highway commissioner of such township; upon cities by leaving a copy thereof with the mayor; upon district or county highway commissioners by delivering a copy thereof to the chairman of such board; upon railroad companies by leaving a copy thereof with the agent in charge of any ticket or freight office of the company operating such railroad in the county in which the lands or right of way of the railroad are situated; and if there shall be no such agent in said county, then by mailing a copy of the citation, so far as it affects the lands or right of way of said railroad company, addressed to either the president, general manager or general superintendent of the company operating such railroad, at the place where its general offices are situated, at least 2 weeks previous to the day of hearing; and upon other corporations by serving the same upon the officer or person designated by law in cases of civil process. If any lands involved are owned by nonresidents of the township or townships, or by residents who do not reside upon the premises traversed by said drain, a copy of the citation so far as it affects such lands shall be mailed to such residents or nonresidents at least 2 weeks before the day of hearing, if their residence can by reasonable diligence be ascertained, and shall be published in some newspaper published and circulating in the county in which such lands are located, for at least 2 weeks previous to the day of hearing, which publication shall be deemed to be sufficient notice to all such parties, and it shall not be necessary to name such owner or owners in said publication. The first publication of such notice shall be at least 14 full days before the day of hearing, and proof of its publication shall be made as above provided in the case of personal service. In case any owner of any land. wherever he may reside within the state, shall receive personal service of the citation. then as to such owner it shall not be necessary to publish such citation or serve it upon the occupant. The probate court of any county having jurisdiction of any application or petition authorized to be filed under this act, is hereby authorized, in its discretion, to order the service of any citation, notice or order which in this act is required to be made by personal service, by sending a copy of such citation, notice or order by registered mail and demanding a receipt therefor: Provided. That in all cases such service by registered mail shall be made within the time prescribed in this act: And provided further, That service may be had upon any nonresident mentioned in this act by registered mail, and if a receipt therefor is received it shall not be necessary to publish such citation, notice or order.

280.79 Same; hearing of objections; special commissioners, determination of necessity and damages; meeting; amendment of application. [M.S.A. 11.1079]

Sec. 79. The court to whom such application is made shall at the time and place fixed in the citation, or at any time to which it may adjourn not exceeding 60 days, and upon proof of service and publication when required, proceed to hear all persons whose lands are to be traversed by said proposed drain, and such persons may show cause against the prayer set forth in the application, and may disprove any of the facts alleged therein, except the necessity of the drain, and may raise any and all objections to any errors or irregularities made in the proceedings had thus far, if any, and the said court shall hear the proofs and allegations of the parties, and the objections so made to the proceedings, if any there be, and if no sufficient cause is shown against granting the prayer set forth in said application. the said court shall make an order appointing 3 disinterested and competent resident freeholders of said county, not residents of the township or townships to be traversed by the drain, as special commissioners to determine the necessity for using such property and the just compensation to be paid therefor to the owners or parties interested in the real estate proposed to be taken for the right of way for such drain. Such court shall immediately upon the appointment of such commissioners, and with the concurrence of the county drain commissioner, appoint a time and place, such time to be not less than 5 nor more than 15 days thereafter, at which time such special commissioners shall meet the commissioner and other parties, who have not released the right of way, to consider the matters and things with respect to which they have been appointed, and the said court shall make public announcement thereof, and thereupon the proceedings shall be deemed a continuing proceeding. and no further notice of the time and place of hearing shall be required, and such appointment and announcement shall be made a part of the record in the case: Provided, That if it shall appear at such hearing that all parties have not been duly notified, the court may adjourn such hearing for a period sufficiently long, not exceeding 30 days, to enable the commissioner to duly notify such parties in the manner heretofore provided, and it shall not be necessary to again notify the parties who have received legal notice in the first instance. The probate court shall, if necessary, allow the commissioner to amend his application at any time before the appointment of special commissioners; and in case there is shown to be error in the proceedings of the commissioner, the probate court shall adjourn the hearing for sufficient time to allow the said commissioner to correct such error or errors: Provided. The petition to establish the drain is shown to be sufficient under the statute.

280.80 Special commissioners, notice of appointment; meeting, adjournment, substitutes; oath; record; view of premises. [M.S.A. 11.1080]

Sec. 80. If the court shall have granted the prayer set forth in the application, such court shall proceed to deliver to the commissioner a copy of the order appointing the special commissioners, and the commissioner shall notify such special commissioners of their appointment and the time and place they are required to meet with him and the other parties who have not released the right of way for said proposed drain. In case any or all of such special commissioners neglect or refuse to meet at such time and place with said commissioner, the said commissioner shall adjourn such day of meeting for a period not to exceed 30 days, and he shall give public notice by proclamation of the date, time and place of such adjourned meeting, and he shall, as soon as practicable, make application to the judge of probate, who shall appoint other special commissioners without further notice or citations. They shall be sworn by the drain commissioner to faithfully discharge the duties of special commissioners in the matter in which they are called to act, and to well and truly determine the necessity of taking private property for the use or benefit of the public for the purpose thereof, and the just compensation to be paid therefor. The special commissioners shall elect a chairman and secretary from their number, who shall keep a complete record of all their proceedings. The said special commissioners, with the commissioner and the other parties in interest who may be present, who have not released the right of way for said proposed drain, shall meet at the time and place ordered by said court and proceed at that time, or at any time to which they may adjourn, to view such premises, and for such purpose they shall have the right to enter upon any lands traversed by the route of the proposed drain.

280.81 Same; hearing, evidence; determination of necessity and compensation for taking; adjournment. [M.S.A. 11.1081]

Sec. 81. The said special commissioners shall hear the proofs and allegations of the several parties in interest, and shall ascertain and determine the necessity for the taking of such private property, for the use or benefit of the public for the purpose thereof, and the just compensation to be made therefor in each case, which compensation shall be determined without reference to any benefits that may accrue to the land as a consequence of the construction of such proposed drain. There shall be produced by the commissioner at such hearing the application for the laying out of such drainage district, his order designating such district, the original minutes of the survey, the petition for the laying out of the drain, the first order of determination, the application to the probate court with a copy of the citation annexed, and a copy of all the proceedings in the probate court, including the order appointing the special commissioners. The special commissioners may adjourn such hearing from day to day, for any cause, not exceeding in all 20 days, announcement of which adjournment shall be then and there publicly made.

280.82 Condemnation proceedings; drains, special commissioners, return, examination, correction, filing, conveyance of easements, vesting of fee, damages. [M.S.A. 11.1082]

Sec. 82. The special commissioners shall within 60 days from the date of their first meeting make a return in writing of their hearing, determination and of their several awards. To assist the special commissioners in arriving at their verdict, the probate court may allow the special commissioners, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement and each and all of the parcels of property to be taken and may also submit to them a blank return which may be as follows: "We, the undersigned, having been appointed by the probate court of the county of , state of Michigan, as special commissioners, to ascertain and to appraise and determine the damages or compensation to be allowed to the owners or parties interested in the real estate proposed to be taken for the right of way for a certain drain, known as the 'drain' to be located in the

No.

in said county, and we find that it is necessary to take the private property described in the petition in this cause, for the use or benefit of the public, for the proposed public improvement. The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Right of Way Required or Easement Taken Compen-Owners-Private sation Occupants Center To Whom Parcel Description Line of Property Others Payable Interested Taken of Property Drain

The different descriptions of the property and the names of the occupants, owners and others interested therein, may be inserted in said blank verdict, under the direction of the court, before it is submitted to the special commissioners, or it may be done by the special commissioners. The special commissioners shall file said return with the probate court, it shall examine the same, and if it shall find such return not to be in substantial conformity with the statute, it shall return the same to the special commissioners for correction, with its objections in writing. The special commissioners shall thereupon proceed to correct their return, and file the same with the probate court within 5 days. When the probate court shall find such return to be without material error, it shall enter an order confirming the awards and an order dismissing any lis pendens filed with the register of deeds by the drain commissioner. A certified copy of said return shall be immediately recorded by the drain commissioner in the office of the register of deeds, and a copy filed in the office of the drain commissioner. A return by special commissioners with respect to any easement taken shall be deemed a sufficient conveyance to vest in the drainage district an easement in the land for the uses and purposes within the scope of its powers, together with such rights of entry upon, passage over, deposit of excavated earth and storage of material and equipment on such lands as may be necessary or useful for the construction, maintenance. cleaning out and repair of said drain. A return of special commissioners with respect to private property taken in fee shall vest the fee of the property taken in the drainage district for the use or benefit of the public for the proposed public improvement. The amount of compensation that may have been awarded therefor shall have been paid or tendered or secured to the persons entitled thereto. The time during which proceedings are pending in the probate court shall not be counted as part of the 5-year period relative to abandonment of a petition as provided in section 221, and the time mentioned in sections 75, 79, 80, 81 and 82 relative to completion of certain procedural steps in condemnation proceedings shall be deemed to be directory and not mandatory and shall not constitute a material defect in such proceedings.

HISTORY: Am. 1962, p. 420, Act 191, Eff. Mar. 28, 1963; Am. 1965, p. 140, Act 108, Imd. Eff.

280.83 Release of right of way and damages, proceedings discontinued. [M.S.A. 11,1083]

Sec. 83. If at any time before the appointment of special commissioners provided for in this act or at any time before the filing of their return and award of damages, all of the parties through whose lands the proposed drain is to pass shall execute a release of right of way, and all damages on account thereof, then all proceedings for the appointment of special commissioners, and all actions taken by them after their appointment, shall be discontinued and void, and the county drain commissioner shall proceed as if no application for special commissioners had been made.

280.84 Setting off damages and benefits; drain order for excess, holding by county clerk. [M.S.A. 11.1084]

Sec. 84. The commissioner shall deduct the award of damages from the assessment of benefits, when made, on the tract which includes the right of way of said drain. In case the award of damages shall exceed the assessment of benefits, the commissioner shall draw his orders for the amounts awarded in the return of the special commissioners in excess of assessments for benefits, describing in each order the lands in payment whereof it is drawn, and before such drain shall be constructed such order shall be tendered by the commissioner to the party entitled thereto: Provided. That if the owner of any lands upon which damages have been awarded in excess of apportionment of benefits be a nonresident of the township or townships traversed by said drain, or be unknown, or in case of a minor or otherwise incompetent person, such order shall be deposited with the county clerk, payable to the owner of such description of land upon which such damages were awarded. Such order shall be held by such clerk and be delivered by him to the owner of such lands when called for or otherwise legally demanded, and the same shall thereby be deemed to have been lawfully tendered to the owner of such lands. It shall be the duty of such county treasurer at any time upon presentation to him of any such drain order drawn for the payment of such right of way or damages to pay the same out of any moneys in his hands belonging to the general fund of such county and refund such amount out of the first moneys collected by him on account of such drain. If the owner of any lands upon which such damages have been awarded in excess of the apportionment for benefits shall, upon the tender of such order to him, refuse to accept the same, the commissioner shall deliver such order to the county clerk and give notice to such owner of that fact. Such order shall be held by such clerk and be delivered by him to the owner of such lands when called for or otherwise legally demanded

280.85 Owner's use of land of right of way. [M.S.A. 11.1085]

Sec. 85. The owner of any land over, through or across which a district has acquired a right of way for the construction and maintenance of an open or covered drain by grant, dedication, condemnation or otherwise, may use the land occupied by such right of way in any manner not inconsistent with the easement of the district. Any use of the right of way which will interfere with the operation of the drain or will increase the cost to the district of performing any of its work thereon is deemed to be inconsistent with the district's easement. Any landowner who violates any of the above provisions shall be subject to the penalties provided in section 421 of this act.

HISTORY: Add. 1962, p. 421, Act 191, Eff. Mar. 28, 1963.

280.86 Special commissioners; compensation. [M.S.A. 11.1086]

Sec. 86. The court shall fix the compensation of the special commissioners, not to exceed \$50.00 per day, and determine the amount of necessary expenses incurred in connection with such proceedings, and the whole cost thereof.

HISTORY: Add. 1965, p. 141, Act 108, Imd. Eff. June 30.

CHAPTER 5.

INTERCOUNTY DRAINAGE DISTRICTS.

280.101 Intercounty drainage districts, application; signers, eligibility. [M.S.A. 11.1101]

Sec. 101. Before any action is taken on any petition to locate, establish and construct any drain, which proposed drain will traverse lands in more than 1 county, or affect more than 1 county, there shall first be filed with the commissioner having jurisdiction of any such lands an application to lay out and designate a drainage district with reference to a proposed drain therein; such application shall tentatively describe the location and route of such proposed drain. The application shall be signed by a number of freeholders in said drainage district whose lands would be liable to an assessment for benefits, equal to 50% of any of the freeholders whose lands would be traversed by the drain or drains ap-

plied for or abut on any highway or street along the side of which such drain extends, between a point where such drain enters such highway and the point where it leaves such highway and which lands are within the drainage district. The eligibility of the signers to such application shall be determined by their interest of record in the office of the register of deeds, in the probate court or in the circuit court of the county in which such lands are situated at the time such petition is filed.

H181ORV Am. 1957, p. 135, Act 119, Ind. Eff. May 24

280.102 Same; copies; joint drainage board, meeting, time, location, notice. [M.S.A. 11.1102]

Sec. 102. Upon filing of such application the commissioner shall within 20 days send a copy of such application by registered mail to the state director of agriculture and also to the drain commissioner of each county in which lie lands liable for assessment for benefits for the construction of such proposed drain. The drain commissioners of such counties and the director of agriculture or any deputy designated by him shall be and constitute the drainage board.

The state director of agriculture shall call a meeting of such drainage board, which meeting shall be held not less than 18 and not more than 60 days from the receipt of such notice. Such meeting shall be held in the immediate locality of the proposed drainage district. Notices of such meeting shall be posted in 5 public places within the proposed drainage district within each county, and served on the county clerk of each county and the supervisor of each township within the proposed drainage district personally or by registered mail at least 10 days before such public meeting. A notice of such meeting shall be published in each county affected once a week for 2 consecutive weeks before such meeting in a newspaper of general circulation in such county, if there is one, the first publication to be at least 10 days before the meeting.

280.103 Chairman of board; determination of practicability; survey. [M.S.A. 11.1103]

Sec. 103. Upon convening said meeting the state director of agriculture or any deputy selected by him shall act as chairman. The said drainage board shall consider such application, and determine the sufficiency of the signatures thereto, and shall go over the route of said proposed drain and take testimony to determine its practicability. All persons owning lands liable to assessment for benefits or whose lands shall be crossed by said drain or any municipality affected may appear for or against said drain proceedings. If at said meeting or at any subsequent time before the entry of the order designating a drainage district, they shall determine that the drainage of the proposed drain area is not practical, no further action shall be taken thereon within 1 year. If said proposed drain is determined to be practical, then the drainage board shall cause a survey thereof to be made by a competent surveyor or engineer to ascertain the area which would be drained by the proposed drain, and the route and type of construction of drain or drains most serviceable for that purpose.

280.104 Surveyor; duties as to intercounty drain, delivery of papers to board; route. [M.S.A. 11.1104]

Sec. 104. The surveyor or engineer authorized to make the survey shall ascertain the size and depth of the drains, and shall preserve all minutes with reference thereto. He shall prepare plans, drawings and profiles thereof, together with a computation of the yards of earth to be excavated, and where practicable the leveling of the spoil banks or the amount of tile or pipe to be used and the necessary bridges and culverts or fords to be built in constructing the proposed drains, and his estimate of the cost of such construction. He shall thereupon lay out a proposed drainage district, which district may be described by its boundaries of streets and highways or tracts or parcels of land or by a description of all tracts or parcels of land, including therein all highways, townships, counties, cities and villages which would be benefited by the construction of the proposed drain, all of which he shall deliver to the drainage board. The surveyor or engineer shall not be limited to the route described in the application, but may recommend a route and type of construction for the drains he considers most serviceable for draining the area involved. HISTORY: Am. 1957, p. 136, Act 119, Imd. Eff. May 24;—Am. 1961, p. 354, Act 212, Imd. Eff. June 6.

280.105 Order designating intercounty drainage district; contents, notice of filing, copies furnished commissioners. [M.S.A. 11.1105]

Sec. 105. The chairman of the drainage board shall thereupon prepare an order designating a drainage district, giving it a name or number and describe therein the drainage district by its boundaries of streets and highways or tracts or parcels of land or by a description of all tracts or parcels of land included therein and the counties, townships, cities, villages and state trunk line highways including therein all highways, townships, counties, cities and villages, which would be benefited by the construction of such drain and would be liable to an assessment therefor; also a description of the drain according to the plans and specifications prepared by the surveyor or engineer and determined by the drainage board, showing the beginning, route, terminus, type of construction and the estimated cost of the construction. Notice of filing of the order shall be given by the state director of agriculture by publishing a notice in a newspaper in each county affected, once in each week for 2 successive weeks, which notice shall give a general description of the route of the drain and of the drainage district as shown by the order. A copy of the order shall within 10 days be filed by the state director of agriculture in the office of the county drain commissioner of each county in which lie lands included in the district.

Same: amendment of name or number of drain, procedure; apportionment of costs.

At any time after the order designating an intercounty drainage district, giving it a name or number, has been filed in the offices of the county drain commissioners of the counties within the district, the order may be amended as to the name or number of the drain by a written request of a drain commissioner of 1 of the counties traversed by the drain, which request shall state the then present name or number of the drain and the change to be made in the name or number. Upon filing of the request, the drain commissioner shall mail a copy of the request, to the state director of agriculture and also to the drain commissioner of each county in which lie lands liable for assessments for the drain. The state director of agriculture shall call a meeting of the drainage board and if, in the opinion of the drainage board, it is found advisable to change the name or number of the drain, they shall file an order designating such change. The drainage board shall also designate the number of signs to be posted upon the drain as they may deem advisable for public notice of the new name or number. Copies of the order changing the name or number of the drain shall be filed with the drain commissioner and the county treasurer of each county liable for assessments of such drain. If the commissioners of the counties affected cannot agree as to the apportionment of costs for laving out a drainage district, the director of agriculture or any deputy appointed by him shall apportion the costs and the counties affected shall pay the same as provided in section 302 of this act. HISTORY: Am. 1961, p. 354, Act 212, Imd. Eff. June 6.

280.106 Review of apportionment; arbitration board, members, claim for review, filing, copies, meeting of board, notice, review. [M.S.A. 11.1106]

Sec. 106. If the drain commissioner of any county involved shall deem the apportionment between the counties to be unfair, he shall have the right to have the same reviewed by an arbitration board to be composed of drain commissioners from any unaffected counties in the state of Michigan. He shall, within 20 days after the order of apportionment provided in section 105 of this act, file with the department of agriculture a "claim for review by arbitration" in which he shall state briefly in what respect he considers the apportionment unfair and request, over his official signature, a review by arbitration and he shall nominate any disinterested drain commissioner as his choice for the arbitration board. Upon receipt of such "claim for review by arbitration" the director of agriculture or his deputy shall within 10 days forward to each county drain commissioner involved, except the claimant, a copy of the "claim for review by arbitration" and such commissioners shall within 10 days notify the department of agriculture of their selection to the arbitration board; whereupon the director of agriculture shall at the earliest opportune date, but not later than 30 days thereafter, notify the chosen drain commissioners of a date and time

they shall meet in his office in the city of Lansing. At such meeting they shall select 1 or 2 more unaffected drain commissioners in the state to complete the board of review. Only 1 shall be selected if the board members selected by the drain commissioners affected constitute an even number and 2 shall be selected if the board members selected by the drain commissioners affected constitute an odd number. Upon selection of the final members of the board of review, those members present shall set a date, time and place in any of the affected counties for a first full meeting of the board of review. Notice of such meeting shall be posted in 5 public places in each county affected and served on the county clerk of each county and the supervisor of each township in every county traversed by said drain personally or by registered mail at least 10 days before such meeting and a notice of such meeting shall be published once a week for 2 consecutive weeks before such meeting, in a newspaper published and of general circulation in each of the counties affected, if there is one, the first publication to be at least 10 days before the meeting. The director of agriculture shall notify the 1 or 2 drain commissioners selected of their appointment and of the date, time and place of the next meeting of the full board. Such board of arbitration shall convene at the time and place specified, elect a chairman and secretary and review the fairness of the apportionment between the counties. All interested persons shall be heard and the board may adjourn from day to day until their review is completed, whereupon the findings shall be made and signed by all the members attesting the determination of the majority of the board and such determination by the majority of the board shall be final and conclusive as to the fairness of the apportionment.

CHAPTER 6.

INTERCOUNTY DRAINS

280.121 Petition to establish; filing, signers, eligibility, certificate of county treasurer, form. [M.S.A. 11.1121]

Sec. 121. After an intercounty drainage district has been established and the order therefor filed as hereinbefore provided, a petition to locate, establish and construct a drain may be filed with any commissioner having jurisdiction of any of the lands designated in such order as constituting the drainage district. Such petition shall ask for the location, establishment and construction of the drain or drains, or any part thereof, as described in said order. The petition shall be signed by a number of freeholders in said drainage district, whose lands would be liable to an assessment for benefits, equal to 2/3 of the number of freeholders whose lands would be traversed by the drain or drains applied for, or abut on the part of any highway or street along the side of which such drain extends, between the point where such drain enters such highway and the point where it leaves such highway and which lands are within the drainage district. Such petition shall be accompanied by a description of the land in said district owned by each signer and by a certificate of the county treasurer as to payment of taxes and special assessments against such lands; such certificate shall be in substantially the following form:

I hereby certify that there are no taxes or special assessments unpaid against any of the lands described in the annexed list according to the records of the county treasurer's office for the past 3 years, except as follows:

Description

Year

Tax or assessment

Amount

The name of any signer as to whose land such certificate shows taxes or special assessments unpaid for 3 years shall not be counted. The eligibility of the signers to such petition shall be determined by their interest of record in the office of the register of deeds, in the probate court or the circuit court of the counties in which such lands are situated at the time such petition is filed. In determining the number of owners whose lands are traversed by such drain, or abut thereon as hereinbefore prescribed, the drain commissioner shall investigate the records of the register of deeds, of the probate court and of the circuit court of the county, and shall make diligent inquiry in the community, including inquiry of anyone in possession of all of such lands so traversed or so abutting, as to the ownership thereof.

280.122 Drainage board, notice of meeting; first order of determination; apportionment of costs; arbitration. [M.S.A. 11.1122]

Sec. 122. Upon filing of such petition the commissioner receiving same shall, within 20 days, notify by registered mail the drain commissioners interested and the state director of agriculture, who shall call a meeting within the time and in the manner set forth in section 102 of this act. The said commissioners and the state director of agriculture, or any deputy selected by him, who constitute the drainage board shall thereupon and thereafter jointly take all steps and perform all acts and sign all papers as commissioners are required to do singly in the case of other drains, except as herein otherwise provided: Provided, however, That in all meetings of said board the state director of agriculture, or his deputy, shall have no vote, except as he may cast the deciding vote in case of a tie. At such meeting all persons owning land liable to assessment for benefits, or any district or municipality affected, may appear for or against said drain proceedings. Said board shall consider said petition and any evidence offered, and if it is determined that said drain is necessary for the good of the public health, convenience or welfare, it shall then proceed to determine the just per cent of the whole cost of construction which each county shall bear, and also determine the number of installments in which the drain taxes shall be collected. In case the commissioners cannot agree on the apportionment between counties or the number of installments, the chairman shall determine the same. An order shall then be prepared, signed by the chairman, and to be known as the first order of determination,

showing the determination of necessity, determination of per cent, and determination of number of installments, and a copy thereof shall be filed in the office of the county drain commissioner of each county into which said drainage district extends. The drainage board shall be the board of determination and shall determine the question of necessity for any drains located, established and constructed under this chapter. If the drainage board cannot agree unanimously on the apportionment between counties, then the matter shall be submitted to the board of arbitration in the manner prescribed in section 106 of this act and that board's decision shall be final.

280.123 Apportionment of benefits; assessment, correction, appeal. [M.S.A. 11.1123]

Sec. 123. After securing releases of right of way as herein provided, the commissioner of each county affected shall apportion the benefits for the construction of such drain to each tract or parcel of land to any county, township, city or village and to any state trunk line highway within said drainage district. in the manner provided in chapter 7, being sections 151 to 161, inclusive, of this act. Such per cent so apportioned when finally approved shall be assessed against such townships, cities, highways and lands according to such apportionment of benefits, as herein provided. The apportionment of benefits so made shall be subject to review and correction and may be appealed from as provided in said chapter 7.

280.124 Meetings of drainage board to receive bids and review apportionment of benefits; notice. [M.S.A. 11.1124]

Sec. 124. After such apportionment shall have been made by each of the commissioners, the chairman of the drainage board shall prepare and have printed notice of a meeting to be held at some convenient place, not less than 20 days from the date of such notice, for the purpose of receiving bids for the construction of such drain, and also for the holding of a public meeting not less than 5 nor more than 30 days after the date set for receiving bids, at which a review will be held of the apportionment of benefits made as aforesaid

280.125 Same; review, appeal, computation of costs. [M.S.A. 11.1125]

Sec. 125. At such meeting the respective commissioners shall hear the proofs and allegations offered and shall reconsider and review the descriptions of land in that county forming a part of the drainage district, the apportionment of benefits, and define and equalize the same as may seem just and equitable. The persons entitled to appear and offer proof may appeal from such review and the manner of taking such appeal shall be as prescribed in chapter 7 of this act, being sections 151 to 161, inclusive.

Bids shall be received and computation of the total cost of the drain shall be made, as hereinafter provided, before the time set for review of the apportionment, and such computation shall be open to inspection at the time of review. If such computation shall not be completed before the day of review, such review may be adjourned from time to time, not more than 20 days in all for the completion of such computation, or a new hearing may be called with like notice by publication, posting and service at least 10 days before such hearing. If for any reason the contracts on which such computation was based shall not be executed and new contracts shall be let at a higher price, a corrected computation shall be made and a new review held with like notice.

280.126 Receipt of bids and letting of contracts; abandonment of petition.
[M.S.A. 11.1126]

Sec. 126. At the time and place fixed in said notice, or at an adjourned date, the drainage board shall receive bids and let contracts for the construction of the drain in the manner prescribed in chapter 9, being sections 221 to 223, inclusive, of this act. If no contract shall be let within 5 years after the date of filing the petition to locate, establish and construct the drain, the petition shall be deemed abandoned and no further action shall be taken to construct said drain unless a new petition shall be filed: Provided, That time during which any litigation shall be pending to contest the validity of such proceedings shall not be counted as a part of such 5-year period.

280.127 Releases of right of way and damages. [M.S.A. 11.1127]

Sec. 127. Within 60 days next succeeding the entry of the first order of determination the said commissioners shall within their respective counties endeavor to secure from the owner of each parcel or tract of land which would be traversed or damaged by said proposed drain a release of the right of way and all damages on account thereof.

280.128 Intercounty drains; condemnation proceedings; appointment of special commissioners, [M.S.A. 11.1128]

Sec. 128. In case all the persons whose lands are to be traversed or damaged by such drain or drains, as proposed in this chapter, shall not within 60 days after the issue of the first order of determination have voluntarily released the right of way therefor, and all damages on account thereof, the drainage board shall apply to the judge of probate of the county in which such lands are situated for the appointment of 3 special commissioners. When such application shall be made and when all papers shall have been found to be in conformity with the provisions of this act, the court to whom such application has been made shall, within 60 days from the filing of said application, appoint such special commissioners and shall deliver to each drain commissioner a certified copy of the order of the appointment of such special commissioners. Such special commissioners shall be resident freeholders of the county and not residents of the township or townships to be affected by the proposed drain in which they are appointed. All proceedings had in the appointment of special commissioners, the issuance of service of citations, hearings by the probate court and by the special commissioners and the return of special commissioners under the provisions of this chapter shall be similar to those provided in chapter 4, being sections 71 to 84.

HISTORY: Am. 1965, p. 141, Act 108, Imd. Eff. June 30.

280.129 Special commissioners; meeting, view of line of drain. [M.S.A. 11.1129]

Sec. 129. When such special commissioners shall have been notified of their appointment in the manner provided in chapter 4, being sections 71 to 84, they shall meet at the time and place fixed by the probate court and meet with the drainage board and view the whole line of such drain, or such portion thereof as shall be deemed sufficient, and shall under the same oath and condition perform their services in the same manner and with like effect as provided in this act for other special commissioners.

HISTORY: Am. 1965, p. 141, Act 108, Imd. Eff. June 30.

280.130 Computation of cost of construction; certification of special assessment rolls, filing; levy and collection of taxes. [M.S.A. 11.1130]

Sec. 130. The commissioners of each county affected shall within the time limited in chapter 11, being sections 261 to 280, inclusive, of this act, and in the manner therein prescribed compute the cost of construction of said drain, prepare and certify the special assessment rolls and file the same with the county drain commissioners. Each and everything necessary to be done in the levy and collection of drain taxes under this chapter shall be done within the time limited and in the manner prescribed in said chapter 11 of this act.

280.131 Drain record; certified copies furnished other commissioners, filing. [M.S.A. 11.1131]

Sec. 131. A full record of such drain shall be made and entered by the several commissioners in the drain record books of their respective counties, and a certified copy of all the papers relative to the construction of such drain shall be delivered to the other commissioners by the commissioner having the original application or petition, which certified copies shall be filed in the office of the county drain commissioner of their respective counties as original papers are required to be filed and with the same force and effect.

280.132 Drainage bonds, issuance, terms; moneys, disposition. [M.S.A. 11.1132]

Sec. 132. In cases where it is determined that the assessments shall be collected in more than 2 installments, the drainage board, acting on behalf of the drainage district, may

borrow money and may issue bonds therefor as provided in the case of drains lying wholly within 1 county. Such bonds shall be signed by the members of the drainage board and shall be countersigned by the clerks of the counties affected. Bonds issued under this chapter shall be payable at the office of the county treasurer of the county to which the larger per cent of the cost of construction is apportioned, and such bonds shall be deposited and safely kept by such treasurer until sold and delivered. All installments, with interest thereon, of the special assessments shall be transmitted as collected by the treasurer or treasurers of the other county or counties concerned to the treasurer of such county, who shall issue his receipt therefor and shall place the moneys in the fund of the drain to be disbursed solely for the retirement of the bonds at maturity and the payment of interest thereon.

280.133 Interstate drain, application and petition, drainage district, proceedings; release of right of way, obstruction agreement. [M.S.A. 11.1133]

Sec. 133. Whenever any proposed drain lies wholly or partly in an adjoining state, or the lands to be drained thereby lie partly in an adjoining state, application to lay out a drainage district and a petition for the construction of such drain may be made to any commissioner representing any county in this state in which any portion of such proposed drain or lands to be affected thereby lie, and the same proceedings shall be had touching the portion of such drain or the lands to be drained or affected thereby, lying within this state as are provided in this chapter in the case of drains and lands lying wholly within this state: Provided. That before any expense shall be incurred in relation to any such proposed drain, a voluntary release of the right of way to construct such portion of such drain as may lie without this state and an agreement to keep the same or permit the same to be kept clear from obstruction shall first be obtained from the parties owning lands outside of this state through which such drain or portion thereof is to pass, and such release and agreement shall be filed with the said drain commissioner and shall form a part of the record of his proceedings in the premises.

280.134 Intercounty drain: venue of actions; appointment of outside circuit judge. [M.S.A. 11.1134]

Sec. 134. Any action involving intercounty drains, except such actions as may be brought directly in the supreme court, may be brought in the circuit court of any county in which any part of the intercounty drain is located: Provided, That on request by any party to said action made prior to the time said action is instituted, or within 30 days after receipt of process, the presiding circuit judge of Michigan shall appoint a circuit judge of any judicial circuit not wholly or partially located within any county in which any part of the intercounty drain is located to hear said action.

280.135 Intercounty drain, extension into county not in original district; procedure, apportionment of cost; addition of lands by expanded board. [M.S.A. 11.1135]

Sec. 135. If at any time after an intercounty drainage district has been established and a drain has been located, established and constructed therein, it appears that it is necessary to extend the drain or drainage district into a county which was not a part of the original intercounty drainage district, the lands in the county may be added to the district by presenting to the drain commissioner of one of the counties traversed or affected by the drain, a petition signed by 50% of the land owners whose land is traversed by the drain or proposed extended drain, which petition shall state the name or number of the drain, and the lands which it is desired to have added to the drainage district. Upon receipt of the petition, the drain commissioner shall mail a copy of the petition to the state director of agriculture and also to the drain commissioner of each county in which lie lands liable for assessments for the proposed extended drain or proposed extended drainage district. The state director of agriculture shall call a meeting of the drainage board including the commissioner of any county in which lie lands that have been added to the drainage district. Notices of such meeting and all other proceedings shall be in accordance with the

provisions of section 197 of this act, as amended. At the meeting all persons owning lands liable to assessment for benefits, or any district or municipality affected, may appear for or against the addition of such lands. The board shall consider the petition and any evidence offered, and if it is determined that the extension of the drain or drainage district is necessary for the good of the public health, convenience or welfare, it shall then proceed to determine the just percentage of the whole cost of construction which each county shall bear, and also determine the number of installments in which the drain taxes shall be collected. In case the commissioners cannot agree on the apportionment between counties or the number of installments, the chairman shall determine the same. If, in the opinion of the expanded drainage board, it is found necessary to add the lands to the drainage district, they shall also enter an order adding the lands. Copies of the order adding the lands to the drainage district shall be filed with the drain commissioner of each county liable for assessments of the extended drain or extended drainage district. Copies of the order adding the lands to the drainage district shall also be served upon all persons whose lands have been added to said drainage district according to section 154 of this act, as amended. After the order is filed the expanded drainage board shall constitute the drainage board for the expanded drainage district and shall have all the powers which are given to drainage boards by this act, as amended

HISTORY: Add. 1957, p. 118, Act 97, Imd. Eff. May 24.

CHAPTER 7.

APPORTIONMENT AND REVIEW

280.151 Final order of determination, filing; contracts for sections or whole; apportionment of costs, benefits; review, appeal. [M.S.A. 11.1151]

Sec. 151. Upon the release of the right of way and damages, or upon the determination and return of the special commissioners, the commissioner shall make his final order of determination establishing the drain, which drain shall be divided into convenient sections for the letting of contracts: Provided, That the commissioner may let the drain in sections or as a whole. Said order of determination shall be filed with the county drain commissioner within 5 days after such order is made. He shall, before the day of letting and review, fix the number of installments for the collection of drainage taxes and apportion the per cent of the cost of construction of such drain which any township, city or village traversed or benefited thereby shall be liable to pay by reason of the benefit to the public health, convenience or welfare, or as the means of improving any highway under the control of such township, city or village. He shall apportion the per cent of the cost of construction of such drain which any highway then under the control of the county or district road commissioners, shall be liable to pay by reason of benefits therefor, and as the means of improving such highway. He shall also apportion the per cent of the cost of construction of such drain which any state trunk line highway, under the control of the state highway commissioner, shall be liable to pay by reason of benefits therefor and as the means of improving said highway. He shall also apportion the per cent of benefits to accrue to any piece or parcel of land by reason of the construction of such drain over and above the per cent apportioned to any township, city or village at large or to any highway as above provided. Such per cent so apportioned when finally approved shall be assessed against such townships, cities and villages and against the county at large by reason of the improvement of the highways within the drainage district, and against the state by reason of the improvement of the state trunk line highways within such drainage district, and against all parcels of land therein according to such apportionment of benefits as herein provided. The apportionment of benefits so made shall be subject to review and correction and may be appealed from as in this act provided. The board of supervisors at its October meeting each year shall make provision by proper assessment of the amounts apportioned against any highway under the control of the county and district highway commissioners.

280.152 Apportionment of benefits; descriptions of land. [M.S.A. 11.1152]

Sec. 152. All apportionments of benefits under the provisions of this act shall be upon the principle of benefits derived. All descriptions of land under the provisions of this act shall be made by giving the legal subdivision thereof, whenever practicable, and when the tract of land which is to be benefited or affected by such drain is less than such legal subdivision it may be described by designation of the lot or other boundaries, or in some way by which it may be known.

280.153 Order to contain description of special assessment district; designation. [M.S.A. 11.1153]

Sec. 153. Such order of determination shall contain a description of the district to be assessed for benefits in the construction of said drain, either by boundaries or by description of the several tracts or parcels of land to be assessed, which said tracts or parcels and the county, townships, cities, villages and highways therein shall constitute the special assessment district, and which district shall in said order be designated by name or number.

280.154 Intercounty drain; apportionment of benefits; review, notices, contents; first class mail, exception. [M.S.A. 11.1154]

Sec. 154. The commissioner shall give notice for the receiving of bids for the construction of the drain and also for the holding of a public meeting, at which a review will be had of the apportionment of benefits. The notice shall specify the time and place of receiving bids, and the time and place of the meeting for review of apportionment, which shall be not less than 5 nor more than 30 days after the date set for receiving bids. The notice shall be given by publication for at least 2 insertions in some newspaper published and of general circulation in the county if there is one, the first publication to be at least 10 days before the date set for receiving bids. The drain commissioner also shall send notice by first class mail of the time and place of the meeting, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment roll as owning land within the special assessment district, at the address shown on such roll, and if no address appears thereon, then no notice need be mailed to such person. The drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed, constitute all of the persons whose names and addresses appear upon the tax rolls as owning land within the particular special assessment district, which affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, if notice has been sent by first-class mail as provided in this section. If the board of determination has determined that the drain is necessary for the protection of the public health and that the whole cost thereof, except that part which may be apportioned for benefits to highways, shall be apportioned to municipalities, then mailing of individual notices to persons owning land within the special assessment district as above prescribed shall not be required.

Notices, contents; minutes of survey, table of cuttings, filing, inspection.

The notice shall also contain the names of all counties, cities, townships or villages to be assessed at large, and shall be personally served on the county clerk and 1 or more members of the road commission of any county or road district, the supervisor of any township, the mayor of any city and the president of any village to be assessed at large. The notice shall contain a description of the land constituting the special assessment district for the drain which description may be stated by designating the boundaries of the special assessment district by streets or highways or parcels or tracts of land or by describing the several tracts or parcels of land constituting the district. It shall not be necessary to subdivide any tract or parcel beyond the point where the whole thereof is within the drainage district or to describe the drain further than by reference to it by its name or number. The notice shall also state the number and length of sections, the average depth and width of each section, and in case of closed drains, the amount and specifications of all tile or pipe

required; the location, number, type and size of all culverts and bridges and the conditions upon which the contract will be awarded. The notice need not contain minutes of survey or table of cuttings which shall be kept on file in the office of the drain commissioner and be open for inspection at the time and place of the letting.

Review of apportionment; computation of cost; adjournment; appearances, equalization of apportionment.

Bids shall be received and computation of the total cost of the drain shall be made before the time set for review of the apportionment, and such computation shall be open to inspection at the time of review. If the computation is not completed before the day of review, the review may be adjourned from time to time, not more than 20 days in all, for the completion of the computation, or a new hearing may be called with like notice, by publication and service at least 10 days before the hearing. If for any reason, the contracts on which the computation was based are not executed and new contracts shall be let at a higher price, a corrected computation shall be made and a new review held with like notice. At the time and place fixed in the notice, or at such other time and place to which the county drain commissioner may adjourn the same, the apportionment of benefits and the lands comprised within the special assessment district shall be subject to review for at least 1 day which review shall be held open from 9 a.m. until 5 p.m. On such reviews the county clerk or the county or district road commission may appear on behalf of the county or any road district, the supervisor or commissioner of highways of any township may appear on behalf of a township; the mayor or some officer of the city designated by him may appear for a city; the president may appear in behalf of a village; and any owner of land may appear in his own behalf or by his agent or attorney. At such review the county drain commissioner shall hear the proofs and allegations of all parties interested, and shall carefully reconsider and review the description of land comprised within the special assessment district, the several descriptions and apportionment of benefits, and define and equalize the same as may seem just and equitable.

Apportionment of benefits; state trunk line highways, review.

Whenever an apportionment of benefits is made against a state trunk line highway, unless the state highway director consents in writing to the apportionment, the drain commissioner, shall, at least 20 days before the review thereon, notify by certified mail the state highway director of the percentage apportioned against the highway and the date and place fixed for a review of all apportionment of benefits. If the state highway director desires to have the apportionment of benefits reviewed by the state director of agriculture, he shall, within 10 days from the receipt of such notice, file with the drain commissioner an objection to the apportionment. The drain commissioner shall then notify the state director of agriculture of the day and place fixed for the review of apportionments, and at such meeting the director of agriculture, or some deputy selected by him, shall review the apportionment made against the state trunk line highway, listen to the proofs and allegations of the parties and may view the highway benefited, and his action and decision thereon, reduced to writing, shall be final.

HISTORY: Am. 1957, p. 66, Act 61, Imd. Eff. May 20;—Am. 1961, p. 355, Act 212, Imd. Eff. June 6;— Am. 1963, p. 313, Act 215, Imd. Eff. May 17;—Am. 1963, p. 370, Act 228, Eff. Sept. 6;—Am. 1965, p. 221, Act 138, Eff. Mar. 31, 1966.

280.155 Same; appeal; application for board of review, bond. [M.S.A. 11.1155]

Sec. 155. The owner of any land in the drainage district or any city, township, village, district or county having control of any highway which may feel aggrieved by the apportionment of benefits so made by the commissioner, may, within 10 days after the day of review of such apportionments, appeal therefrom and for such purpose make an application to the probate court of the proper county for the appointment of a board of review, by filing with said probate court a notice of appeal and at the same time filing with said court a bond in such sum as the judge of probate may require, with 1 or more sureties to be approved by the judge of probate, conditioned upon the payment of all costs in case the apportionment made by the commissioner shall be sustained. Such appeal may

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be taken by the county or district road commissioners in behalf of the county, the mayor of any city in behalf of the city, by the supervisor in behalf of any township, or by the president of any village in behalf of the village when authorized by the village or city council, township board or road commission, respectively. Only 1 board shall be appointed by such probate court.

280.156 Same; board of review, appointment, meeting, time, notice, duties. [M.S.A. 11.1156]

Sec. 156. The probate court upon receipt of any such application as hereinbefore provided for shall forthwith notify the commissioner in writing of such appeal, and shall thereupon make an order appointing 3 disinterested and competent freeholders of such county, not residents of the township or townships affected by said drain, as members of a board of review. The persons so appointed shall constitute the board of review. The court shall thereupon, with the concurrence of the commissioner, immediately fix the time and place when and where said board of review shall meet to review said apportionments, which time shall not be less than 10 nor more than 15 days from the date of filing such appeal. The commissioner shall thereupon give notice to the persons so appointed of their appointment and of the time and place of meeting, and shall give notice of such meeting by posting notices in at least 5 public places in each township forming a part of the drainage district, and shall serve a like notice upon the appellant if he be a resident of any township affected. Such notice shall be made not less than 5 days before the day of hearing and shall be made by personal service. Proof of service of notice of appeal shall be made by the person serving said notice and be filed in the office of the judge of probate. At such hearing the board of review shall have the right, and it shall be their duty, to review all apportionments for benefits made by the commissioner on such drain. The persons so appointed shall be sworn by the commissioner to faithfully discharge the duties of such board of review

280.157 Same; board of review, powers, added lands, procedure; decision in writing final, delivery to commissioner. [M.S.A. 11.1157]

Sec. 157. The board of review shall proceed at the time and place specified in the notice to hear the proofs and allegations of all the parties in respect to the matter of appeal and shall thereupon proceed to view the lands benefited by such drain and review all the apportionments made by the commissioner on such drain, and if in their judgment there be manifest error or inequality in such apportionments they shall order and make such changes therein as they may deem just and equitable. Should the board of review find upon personal examination that there are lands liable to be assessed for the construction of said drain that are not included in the drainage district made by the commissioner, they shall add such lands to the drainage district of said drain and shall adjourn such review to such other time or place to be by them at the time of such adjournment publicly announced, as shall to them seem proper, but not in all more than 20 days from and after the time of review first advertised and shall serve a notice on all such owners of lands so added living in the county; such notice shall give the time and place of said review, also the description of lands added to said drainage district and shall be served at least 10 days before the adjourned day of review. Should such owners of land liable to an assessment be nonresidents of said county, there shall be a personal notice served on said owners, as required above, or a notice shall be published in some weekly newspaper published in said county, at least 2 insertions, giving the description or descriptions of lands added to said assessment district and also giving the time and place where said board of review shall meet. The action and decision of said board shall be final. The action and decision shall be reduced to writing and signed by a majority of the board making the same, and shall be delivered to the commissioner, together with all other papers relating thereto.

280.158 Appeal cost and expenses, liability on bond. [M.S.A. 11.1158]

Sec. 158. In case the apportionment of the commissioner shall be sustained by such board of review the appellant shall pay the whole costs and expenses of such appeal. Such costs and expenses shall be ascertained and determined by the judge of probate, and if not paid the appellant shall be liable on his bond for the full amount of such costs in an action at law, to be brought by the commissioner on the bond before any court having competent jurisdiction.

280.159 Board of review, vacancies, adjournment. [M.S.A. 11.1159]

Sec. 159. Should any or all of the persons so appointed as a board of review neglect or refuse to serve or be unable to act, the commissioner shall adjourn the hearing for a sufficient length of time, not exceeding in all 10 days, to enable him to apply to the probate court, for the appointment of other persons to act on such board of review and shall make public announcement of the time and place of such adjournment. The review shall thereupon be deemed a continuous proceeding and no further notice shall be required. The probate court shall upon the showing being made, either that any or all the persons appointed as aforesaid have neglected, refused or were unable to act as the case may be and of the adjourned day of meeting, at once by order appoint such other person or persons so appointed to fill such vacancy. And the commissioner shall notify the person or persons so appointed to fill such vacancy of his appointment and of the adjourned day of meeting. The person so appointed shall have the same power and perform the same duties as are herein provided for the board of review in the first instance.

280.160 Liability for costs, only 1 board of review, adjournment. [M.S.A. 11.1160]

Sec. 160. In case the apportionment made by the commissioner is sustained, the individual, county, township, city or village appealing shall be severally liable for all costs incurred by such appeal and the same proceedings shall be had throughout in all respects in said appeal as to the benefits and liabilities in case of an appeal from an individual apportionment: Provided, That only 1 board of review shall be appointed by such probate court for any one drain. The board of review herein provided for may adjourn any hearing before them from time to time as justice may require, not exceeding in all 20 days from the date of their first meeting.

280.161 Certiorari to review drain proceedings and taxes; issues of fact, costs, postponement of proceedings. [M.S.A. 11.1161]

Sec. 161. The proceedings in establishing any drain and levying taxes therefor shall be subject to review on certiorari as herein provided. A writ of certiorari for any error occurring before or in the final order of determination shall be issued within 10 days after a copy of such final order is filed in the office of the drain commissioner as required by section 151 of this act, and for any error occurring after such final order of determination, within 10 days after the day of review, or if an appeal has been taken within 10 days after the filing of the report of the board of review. Notice of such certiorari shall be served upon the commissioner within 10 days after the day of issue in the same manner as notice is required to be given of certiorari for reviewing judgments rendered by justices of the peace, and the writ shall be issued and served, and bond given and approved and the subject matter brought to issue in the same time and manner, as near as may be, as in such cases provided, except that such certiorari may be heard by the court during term. or at chambers, upon 5 days' notice given to the opposite party; and the circuit court of the county shall hear and determine the same without unnecessary delay, and if any material defect be found in the proceedings for establishing the drain, such proceedings shall be set aside. If issues of fact are raised by the petition for such writ and the return thereto, such issues shall, on application of either party, be framed and testimony thereon taken under the direction of the court. If the proceedings be sustained, the party bringing the certiorari shall be liable for the costs thereof, and if they be not sustained, the parties making application for the drain shall be liable for the costs. If no certiorari be brought within the time herein prescribed, the drain shall be deemed to have been legally established, and the taxes therefor legally levied, and the legality of said drain and the taxes therefor shall not thereafter be questioned in any suit at law or equity: Provided, No court shall allow any certiorari questioning the legality of any drain by any person unless notice has been given to the commissioner in accordance with the provisions of this chapter: Provided further. That when such proceedings are brought the commissioner shall postpone the letting of contracts and all other proceedings until after the determination of the court. And if any error be found in the proceedings, the court shall direct the commissioner to correct such error or errors and then proceed the same as though no error had been made.

280.162 Village or city, incorporation or annexation; reapportionment of cost of drain. [M.S.A. 11.1162]

Sec. 162. Whenever a village or a city is incorporated out of the territory of a township, or whenever annexations are made to a city or a village from a township, the township, city or village by action of its governing body may petition the drain commissioner in case of a county drain, or the drainage board in case of an intercounty drain, for a reapportionment of the original percent of apportionment at large against the township. Upon receipt of the petition, the drain commissioner or the drainage board, shall reapportion the percent of the original cost to the township between the township, city or village. The reapportionment shall be made in accordance with the provisions of section 152 of this act.

HISTORY: Add. 1962, p. 421, Act 191, Eff. Mar. 28, 1963.

CHAPTER 8.

CLEANING, WIDENING, DEEPENING, STRAIGHTENING AND EXTENDING DRAINS.

280.191 County drain; cleaning out, etc.; relief drain, tiling, petition, determination of necessity; apportionment of cost, review. [M.S.A. 11.1191]

Sec. 191. Whenever a drain or portion thereof, which drain when constructed, traversed or affected lands wholly in 1 county, needs cleaning out, relocating, widening. deepening, straightening, tiling, extending or relocating along a highway, or requires structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or needs supplementing by the construction of 1 or more relief drains which may consist of new drains or extensions, enlargements or connections to existing drains, or needs 1 or more branches added thereto, any 5 freeholders of the township or townships in which such drain is situated. 2 or more of whom shall be owners of land liable to an assessment for benefits for such work, may make petition in writing to the commissioner setting forth the necessity of such proposed work and the commissioner shall proceed in the same manner as hereinbefore provided for the location, establishment and construction of a drain. If any such project includes a tiled relief drain, or the tiling of an existing open drain or any portion thereof, with a conduit any part of which has an inside diameter in excess of 36 inches or the retiling of an existing drain with a conduit, any part of which has an inside diameter in excess of 36 inches, then such petition shall comply with the provisions of section 71. The preceding sentence shall not be applicable to the construction of bridges, culverts and passageways. The word tiling as used in this and other sections of this act, as amended, shall be deemed to mean the laying of a conduit composed of tile, brick, concrete or other material. Whenever it is necessary for the public health of 1 or more cities, villages and townships, such petition may be signed solely by a city, village or township when duly authorized by its governing body or by any combination of such municipalities, if such municipality or municipalities will be liable to assessments at large for a percentage of the total amount to be assessed for the cost of the proposed work. After the board of determination shall have determined the necessity for such work, as provided in section 72, the commissioner shall, as soon as practicable after the final order of determination prescribed in section 151 has been filed by him, proceed in all respects as provided in sections 151 to 161. In case the apportionment shall be the same as the last recorded apportionments, no day of review shall be necessary, but in other cases the commissioner shall proceed in all respects as provided in sections 151 to 161, including the notice of and the holding of a day of review.

HISTORY: Am. 1956, 1st Ex. Ses., p. 9, Act 5, Imd. Eff. June 23;—Am. 1957, p. 136, Act 119, Imd. Eff. May 24:—Am. 1959, p. 406, Act 261, Imd. Eff. Aug. 21;—Am. 1965, p. 309, Act 194, Imd. Eff. July 15.

280.192 Intercounty drain; cleaning out, etc.; devices to purify flow; relief drains, branches, apportionment of costs, petition, drainage board, survey, procedure. [M.S.A. 11.1192]

Sec. 192. Whenever a drain or portion thereof, which drain when constructed, traversed or affected lands in more than 1 county, needs cleaning out, relocating, widening, deepening, straightening, tiling, extending or relocating along a highway, or requires structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or needs supplementing by the construction of 1 or more relief drains which may consist of new drains or extensions, enlargements or connections to existing drains, or needs 1 or more branches added thereto, freeholders within the drainage district equal to 50% of the number of freeholders whose lands are traversed by said drain or drains in said petition or abut on any highway or street along either side of which such drain extends, between the point where said drain enters such highway and the point where it leaves such highway or street and which lands are within the drainage district, may make a petition in writing to the commissioner of any county having lands in such district setting forth the neces-

sity of such proposed work. Whenever it is necessary for the public health of 1 or more cities, villages or townships, the petition may be signed solely by a city, village or township when duly authorized by its governing body or by any combination of such municipalities if the municipality or municipalities will be liable to assessments at large for a percentage of the total amount to be assessed for the cost of the proposed work. The percentage of cost apportioned to the municipality or municipalities shall be based upon the benefits to accrue to such municipality or municipalities and also the extent to which they contribute to the conditions which makes the drain necessary. Upon receipt of such petition, the commissioner shall notify the state director of agriculture and the commissioners of each county embracing any lands in the drainage district, and the director of agriculture shall call a meeting within the time and in the manner prescribed in section 122. The persons so named shall constitute a drainage board and if such work is then determined to be practicable, they may thereupon appoint a competent surveyor or engineer to make a survey of said drain, and lay out a drainage district according to section 104. After the surveyor or engineer has filed all data with the drainage board. the director of agriculture shall call a meeting as provided in section 122, and thereafter take all steps and perform all acts which are required to be done by said board upon a petition for the location, establishment and construction of drains as provided in sections 121 to 134. Such board and the commissioners shall exercise such power and be subject to such limitations as are provided in sections 121 to 134.

HISTORY: Am. 1957, p. 137, Act 119, Imd. Eff. May 24;—Am. 1959, p. 406, Act 261, Imd. Eff. Aug 21.—Am. 1963, p. 35, Act 36, Eff. Sept. 6.—Am. 1965, p. 309, Act 194, Imd. Eff. July 15.

280.193 Drains; apportionment for cleaning, widening, deepening, straightening, and extending; review, notice; consolidated districts. [M.S.A. 11.1193]

Sec. 193. All apportionments hereunder shall be made according to the benefits received and shall be subject to appeal the same as in the first instance. In case the apportionment shall be the same as the last recorded apportionment, no day of review shall be necessary. In case the apportionment shall be changed, or in case an apportionment is made in a consolidated district which apportions benefits between lands which have not been previously assessed by the consolidated district, the procedure shall be in all respects in accordance with the provisions of chapter 7 of this act, including the notice of and the holding of a day of review.

HISTORY: Am. 1962, p. 90, Act 103, Imd. Eff. Apr. 30.

280.194 Petitions; description, limitation on number; lateral and branch drains. [M.S.A. 11.1194]

Sec. 194. In any petition filed under this chapter it shall not be necessary for the petitioners to describe said drain other than by its name or to describe its commencement. general route and terminus. For any work necessary to be done in cleaning out, widening, deepening, straightening, consolidating, extending, relocating, tiling or relocating along a highway, or for providing structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, and for any and all such proceedings, only 1 petition or proceeding shall be necessary. When requested in any petition filed under this chapter, it shall be possible to construct lateral and branch drains to the drain upon which the petition requests work. Any petition which requests the construction of a lateral or branch drain shall be signed by a number of freeholders whose lands would be liable to an assessment for benefits for said lateral or branch drain equal to 50% of the number of freeholders whose lands would be traversed by the branch or lateral drain applied for or abut on any highway or street along the side of which such branch or lateral will extend between the point where such branch or lateral drain will enter such highway and the point where it leaves such highway and which lands are within the drainage district or will be added to the drainage district as a result of the construction of such branch or lateral drain.

HISTORY: Am. 1956, 1-t Ex. Ses., p. 10, Act 5, Imd. Eff. June 23;—Am. 1957, p. 137, Act 119, Imd. Eff. May 24.

280.195 Further right of way, damages. [M.S.A. 11.1195]

Sec. 195. In case it shall be necessary to secure further right of way and allow damages therefor, for any work contemplated by this chapter, the commissioner shall take all the necessary steps to obtain such right of way as are prescribed by chapter 4, being sections 71 to 84, inclusive, of this act.

280.196 Inspection; maintenance and repair, expense, reassessment; emergency. [M.S.A. 11.1196]

Sec. 196. An annual inspection may be made of all drains laid out and constructed under this act. Inspection shall also be made upon the request of the governing body of any city, village or township served in whole or in part by the drain to be inspected. In the case of county drains, such inspection shall be made by the drain commissioner, or a competent person appointed by him. In the case of intercounty drains, such inspection shall be caused to be made by the drainage board. Whenever such inspections disclose the necessity of expending money for the maintenance and repair of any drain in order to keep it in working order, the drain commissioner, in the case of a county drain, or the drainage board, in the case of an intercounty drain, may without petition expend an amount not to exceed in any one year \$500.00 per mile or fraction thereof or 1% of the original cost of the drain and 1% of extensions thereof for maintenance and repair of any drain. Whenever it shall be found necessary by the drain commissioner or the drainage board to expend funds in excess of \$500.00 per mile or fraction thereof or 1% of the original cost of the drain and 1% of extensions thereof in any one year for maintenance and repair of any drain. such additional amounts shall not be expended until approved by not less than 50% of the total number of legislative bodies of all of the cities and townships within or partly within the drainage district. In case the fund belonging to the drain is not sufficient to pay for any work authorized by this section, the drain commissioner or the drainage board shall reassess the drainage district therefor according to benefits received, which reassessment shall be made and spread upon the city or township tax assessment roll within 2 years from the completion of the inspection work, and in case the total expenditure is more than \$500,00 per mile or fraction thereof or 1% of the original cost of the drain and 1% of extensions thereof all freeholders subject to assessment shall be notified of such assessment by publication in a newspaper of general circulation within the drainage district and by first class mail to each person whose name and address appears upon the last city or township tax assessment roll as owning land within the drainage district. An affidavit of mailing shall be made by the drain commissioner or chairman of the drainage board which shall be conclusive proof that the notices required by this section were mailed. The failure to receive such notices by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, if notice by publication as required by this section were complied with. Whenever an emergency condition exists which endangers the public health, crops or property within their respective districts, the drain commissioner or the drainage board may expend funds for any work contemplated in this chapter subject to the limitations provided in this section for maintenance and repair.

State or federal aid.

In computing the amounts which may be expended in accordance with the provisions of this section, the cost of any work to be performed by any state or federal agency which is not chargeable to such county or intercounty drainage district shall not be included, nor shall it be necessary for the drain commissioner or the drainage board to advertise for bids for that portion of the work to be done by such state or federal agency.

HISTORY: Am. 1959, p. 68. Act 70, Imd. Eff. June 12;—Am. 1960, p. 96, Act 96, Imd. Eff. Apr. 26;—Am. 1962, p. 105, Act 117 Eff. Mar. 28, 1963.

280.197 Survey of drain or district, filing of data; addition to district; notice, publication; first class mail, affidavit of mailing, service, expense. [M.S.A. 11.1197]

Sec. 197. Upon receipt of any petition filed under this chapter, the commissioner or the drainage board may, if deemed necessary, require a competent surveyor or engineer

to make a survey of the drain or of the district, or any portion thereof, or if necessary lay out a new district including the lands benefited or to make profiles, plans or estimates of such work and file all data concerning same with the commissioner or the chairman of the drainage board. If upon filing the data it appears that lands have been added to the drainage district, the drain commissioner in the case of a county drain, or the chairman of the drainage board in the case of an intercounty drain, shall notify the board of determination who allowed the petition that lands should be added to the district, and the drain commissioner or chairman of the drainage board shall call a meeting of the board of determination. If any member of the board of determination is disqualified or unable to act, then his place shall be filled by appointment as in the first instance. The notice shall specify the time and place within the drainage district at which the board of determination shall reconvene. The drain commissioner or chairman of the drainage board also shall cause the notice to be published once in a newspaper of general circulation in the county or a newspaper of general circulation in the area where the drain improvement is contemplated at least 10 days before the meeting. He shall also send notice by first class mail of the time and place of the meeting, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment roll as owning land within the enlarged drainage district, at the address shown on the roll, and if no address appears thereon, then no notice need be mailed to such person. The drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed constitute all of the persons whose names and addresses appear upon the tax rolls as owning land within the enlarged drainage district, which affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, if notice has been sent by firstclass mail as provided in this section. All expense of notification shall be paid by the drainage district.

Hearing by reconvened board of determination; determination; construction.

At the time and place designated by the drain commissioner or the chairman of the drainage board the board of determination shall reconvene and any freeholder or any municipality affected in the enlarged drainage district shall have a right to be heard as to the necessity of the proposed improvement and the addition of land to the district. Upon reconvening, if the board of determination by a majority vote of all members finds the proposed addition of such lands to the drainage district necessary and conducive to the public health, convenience or welfare, they shall make their order to that effect and file the same with the drain commissioner, or drainage board in the case of intercounty drains. The drain commissioner or drainage board shall thereafter take all steps and perform all acts which are required to be done for the locating, establishing and constructing of drains as designated in chapter 4 or chapter 6 of this act.

HISTORY: Am. 1958, p. 95, Act 87, Imd. Eff. Apr. 11;—Am. 1961, p. 356, Act 212, Imd. Eff. June 6;— Am. 1963, p. 315, Act 215, Imd. Eff. May 17;—Am. 1963, p. 372, Act 228, Eff. Sept. 6;—Am. 1965, p. 222, Act 138, Eff. Mar 31, 1966.

280.198 Drain taxes, subsequent assessment. [M.S.A. 11.1198]

Sec. 198. The assessment, collection and return of drain taxes for any work done under this chapter shall be made in the same manner and under the same provisions as in this act provided for drain taxes assessed, collected, returned and enforced in the first instance: Provided. That in all proceedings involving subsequent assessments, the drain commissioner shall furnish to the supervisor of each township containing parcels of land subject to such assessment the names of the owners of record of such parcels as of the date of the assessment.

280.199 Cleaning out drain; apportionment of cost; use of surplus in drain fund. [M.S.A. 11.1199]

Sec 199. In case the necessity for cleaning out any drain arises from the act or neglect of any land owner, said act or neglect shall be taken into consideration by the commis-

sioner in making the apportionment. In case the cost of cleaning out shall be lessened by the tiling of the source of the drain under section 425 of this act, the commissioner may take that into consideration in making the apportionment of benefits against the land so tiled but in no case shall said benefits be considered to be less than 50% of the benefits to such land if it were not tiled. Should there be a surplus in any drain fund, the commissioner or drainage board, as the case may be, may, in their discretion, without application or notice, pay out of such funds a reasonable compensation for cleaning out any obstruction that may accumulate in the particular drain for which the fund was raised.

280.200 Same; cost of maintenance and repair; public contracts. [M.S.A. 11.1200]

Sec. 200. In lieu of assessing the cost of the maintenance and repair of any drain to parcels of land in the drainage district within any city, village, township, charter township or county, the commissioner or drainage board may contract relative to such cost with any city, village, township, charter township or county in which the drain, or any part thereof, is located, or whose residents use the drain for drainage or for the transportation of sewage. In the contract any city, village, township, charter township or county may agree (1) to pay annually to the commissioner or the drainage board certain sums for the cost of maintenance and repair of any drain and for the creation of a reserve fund therefor, or (2) to provide such sums periodically as needed, or (3) to reimburse the commissioner or drainage board for all sums expended for maintenance and repair, or (4) for any combination of the foregoing. The contract shall be approved and its execution authorized by a resolution adopted by the legislative body of the city. village, township, charter township or county and shall be executed by the commissioner or drainage board on behalf of the drainage district. The city, village, township, charter township or county may fulfill its obligation to pay in accordance with the terms of the contract out of its general funds, service charges to its residents, or any other legally available funds. The contract shall specify the manner in which the obligation to pay shall be fulfilled.

HISTORY: Add. 1962, p. 90, Act 103, Imd. Eff. Apr. 30.

CHAPTER 9.

LETTING OF CONTRACTS.

280.221 Construction of drain; bids; contract; readvertisement; installment bonds. [M.S.A. 11.1221]

Sec. 221. At the time and place fixed in the notice therefor, the commissioner shall receive bids for the construction of the drain. The commissioner may in any case, and shall for all drains having an estimated cost exceeding \$3,000.00, advertise for sealed proposals, to be opened on the day of letting. All sealed proposals received by the commissioner shall be publicly opened by him in the meeting and may be there examined by any person interested. As soon as practical after the opening of bids for the construction of any drain, the commissioner shall determine the lowest responsible bidder and award contracts, or he may reject all proposals and readvertise as in the first instance, and in cases where the commissioner determined that the taxes assessed for benefits shall be collected in more than 1 installment, he shall, subject to the provisions set forth in section 275 of this act, determine the amount, form, maturity and rate of interest of bonds to be issued. In counties having a board of county auditors no drain bonds shall be sold and no drain contracts let without the written consent and approval of the board of county auditors, but the approval of said board shall not be required in proceedings relative to intercounty drains.

Abandonment of petition; litigation.

If no contract shall be let within 5 years after the date of filing the petition to locate, establish and construct, or deepen, widen, straighten, tile, extend or clean out a drain, the

petition shall be deemed abandoned and no further action shall be taken to construct said drain unless a new petition shall be filed. Time during which any litigation shall be pending to contest the validity of such proceedings shall not be counted as a part of such 5-year period.

Road commissioners, bid.

The board of county road commissioners, when authorized by a committee of supervisors appointed by the board of supervisors, is hereby authorized to bid for the construction, cleaning, deepening and widening of drains within the county, and, if such bid is accepted, shall be authorized to perform the work called for therein, and receive payment therefor. A bid tendered by such board of county road commissioners shall not be accepted unless such bid shall be at least 15% lower than any other bid tendered. The moneys received by the county road commission shall be credited to the county road fund, and expenditures incurred by the county road commission shall be proper disbursements therefrom.

HISTORY: Am. 1960, p. 5, Act 4, Imd. Eff. Mar. 8.

280.222 Letting contracts; rejection of bids; adjournment. [M.S.A. 11.1222]

Sec. 222. The commissioner shall first let the section at the outlet of the drain and shall let each remaining section in its order up stream: Provided, That the commissioner may let the drain in sections or as a whole, whichever appears to him the most practical: Provided further. That the commissioner shall reserve the right to reject any and all bids or proposals and proceed to let said drain in its entirety, and may adjourn such letting in the whole or in part, from time to time, to such other time or place to be by him at the time of such adjournment publicly announced as shall to him seem proper, but not in all more than 40 days from and after the time of letting as first advertised.

280.223 Deposit with bid; execution of contracts; forfeited deposits; performance bond; indemnity bond. [M.S.A. 11.1223]

A certified check or its equivalent in such amount as the commissioner may deem reasonable may be required with each bid, whether on opening bidding or sealed proposals, as evidence of good faith and to reimburse the district in the event of failure on the part of the successful bidder to execute the necessary contracts or to furnish the required bond or indemnity insurance. In case the successful bidder shall not execute the proper contracts or furnish the bonds or indemnity insurance required by him within 10 days after the acceptance of his bid, then the commissioner may retain such deposit as stipulated damages for the nonexecution of the contract and proceed to advertise for and let the job anew. If the successful bidder furnishes the bonds or indemnity insurance required and executes the required contracts, then such deposit shall be returned to him. All moneys so forfeited shall be deposited with the county treasurer to the credit of such drainage district fund. The successful bidder shall, within the time above limited, file with the commissioner a surety bond, conditioned for the faithful performance of said contract. Such bond shall be in a sum to be fixed by the commissioner, but shall in no case be less than the contract price. The commissioner shall require the successful bidder in any case to furnish a bond or indemnity insurance in such sum as the commissioner may require and to be approved by him, which said bond or indemnity insurance shall run to the people of the state of Michigan and shall be maintained in full force and effect until such contract is terminated to indemnify the drain commissioner, drainage district, county or other municipality by reason of any injury to any workman on said drain, or against any loss or damage by reason of the negligence or carelessness of said contractor in the construction of said drain. Indemnity insurance which shall terminate by expiration or cancellation shall be replaced prior to termination in such sum as the commissioner shall then require

HISTORY: Am. 1960, p. 97, Act 96, Imd. Eff. Apr. 26.

CHAPTER 10.

INSPECTION AND APPROVAL OF CONSTRUCTION AND PAYMENT FOR THE DRAIN.

280.241 Inspection of drain; order of approval, payments on contract. [M.S.A. 11.1241]

Sec. 241. No warrant or drain order for the payment of any part of such drain contract shall be drawn until the work has been inspected and approved as herein provided. The commissioner may inspect and approve any tile or open drain, or he may designate any competent surveyor or engineer to make such inspection, but where the construction exceeds \$3,000.00, the commissioner shall designate a competent surveyor or engineer to make the inspection. Any person making such inspection shall see that the specifications in the contract are fully complied with, and if the work is not in accordance with the contract, the commissioner shall immediately notify the contractor thereof. If the work so inspected shall conform to the contract, the person making the inspection shall certify in writing to that fact and an order of approval shall thereupon be entered by the commissioner in his drain record, and notice of the approval be given the contractor. The commissioner may issue warrants or orders on the fund of any drain not exceeding 90% of the amount earned on any contract after the certificate of inspection and the order of approval is entered as herein provided. The payment of the final 10% or any portion thereof on any contract may be made after the certificate of inspection is made attesting to the completion and is filed in the office of the commissioner.

HISTORY: Am. 1965, p. 131, Act 98, Eff. Mar. 31, 1966

280.242 Extension of time on contract; forfeiture; reletting unfinished portion; recovery of excess cost. [M.S.A. 11.1242]

Sec. 242. The commissioner shall have power to grant a reasonable extension of time for the completion of any contract. When any contract shall not be finished within the time specified, or to which it may be extended, the commissioner shall declare such contract forfeited and shall, within a reasonable time thereafter, relet the unfinished portion thereof to the lowest responsible bidder, by public letting, after not less than 5 days' notice thereof, by posting only, as provided for the letting in the first instance, or by private letting when such can be done, at a price per rod for the uncompleted portion thereof not exceeding the price per rod at which the job was first let; and he shall make contract and take security in each case as herein provided. The cost of completing such part over and above the contract price, if any, and the expense of notice and reletting shall be collected by the commissioner of the parties first contracting or of their bondsman, which moneys, when so collected, shall be deposited with the county treasurer, and placed to the credit of such drain.

280.243 Deficiency; assessment, collection, review, appeal; embezzlement; payment from county general fund, conditions. [M.S.A. 11.1243]

Sec. 243. Whenever the amount assessed for the construction of any drain shall not be sufficient to complete the same, and to pay all the costs and incidental expenses or to pay the principal and interest on bonds if such are issued, a further assessment shall be made to meet the deficit or additional expense. Such further assessment shall be apportioned, assessed, levied and collected as provided in the first instance, and on the same percentage, and shall be collected in 1 year, but there shall be no review of nor appeal from such further assessment: Provided, That whenever by reason of the embezzlement or other wrongful act of any county official or by reason of the conspiracy of any county official with any other person or persons to defraud any drainage district, township or county, there shall be any deficiency as aforesaid, the board of supervisors of any county traversed by the drain may provide for the payment, out of the general fund of the county, of all or any part of such additional assessment as may be apportioned to that part of the drainage district within such county, or for the refunding to taxpayers of any such assessment which may have been paid.

280.244 Drain orders; drawing and payment, restrictions; payment from county general fund, reimbursement. [M.S.A. 11.1244]

All orders for the payment for services rendered and work performed shall be drawn by the commissioner upon the drain fund of each particular drain. In case of taxes assessed for benefits received which are to be paid in 7 annual installments or less, all orders for the payment for lands for right of way shall be paid out of the first year's taxes, and the balance of such first year's taxes, if any, shall be applied pro rata among the several contractors in the payment of the contracts for the construction of such drain. For the balance due upon such contracts the commissioner shall draw orders payable out of each succeeding year's assessment pro rata among the several contractors: Provided. That no commissioner shall draw orders payable in any one year for a larger amount than said year's assessment, except in cases where bonds are issued and sold as provided by law. All drain orders shall be drawn payable not sooner than the fifteenth day of April nor later than the first day of August of the year in which the drain taxes for the payment thereof are required to be paid. If the drain fund is insufficient for such purpose because of delinquency in the payment of drain taxes after the lands on which the said taxes shall have become delinquent have been offered for sale, in any such case where payment is made by the county treasurer out of the general fund and all delinquent drain taxes received by said treasurer thereafter shall be credited to the general fund until the same is reimbursed. In all cases where bonds are issued and sold as herein provided and the proceeds thereof are deposited in the county treasury to the credit of the fund of the particular drain, orders presented on such fund shall be paid out of the proceeds aforesaid, or out of the first annual installment of the taxes. In no case where there are outstanding bonds shall an order be paid out of any installment of taxes collected other than the first.

280.245 Same; contents, recording; payment; insufficient funds, interest; drain order redempt on fund; payment of drainage taxes; reports to commissioner by county treasurer. [M.S.A. 11.1245]

Sec. 245. All drain orders made by the commissioner shall state the services rendered in brief form, shall be numbered and recorded and signed by the commissioner. Such order, when due, shall be presented to the county clerk and he shall immediately ascertain from the county treasurer if the particular fund on which said order is drawn is sufficient to pay said order. If such fund is sufficient, the county treasurer shall so certify on the back of said drain order and the county clerk shall thereupon issue the usual county warrant upon the county treasurer for the payment of said order, taking said order so certified as his voucher. If such particular fund is insufficient when such order is presented for payment, the county treasurer shall so certify upon such order and such order shall then draw interest at the rate of 6% per annum from the date of presentation until such particular fund is sufficient to pay the same, said interest to be computed and paid with the principal out of the proper fund on which it was drawn, when there are sufficient funds to pay the same. The county treasurer shall keep a record in which he shall note each drain order presented for payment on a drain account which was insufficient to pay such order on the date of presentation. He shall note in such record the amount, number, drain account and the date of original presentation for payment. When there are sufficient moneys in the particular drain account to pay the order, plus interest, the county treasurer shall note the date of such sufficiency on such record and shall transfer sufficient moneys to pay such order and interest then due from the particular drain account and drain fund to a drain order redemption fund and the drain order shall cease to earn interest as of that date. Transfers to the drain order redemption fund shall be made in the order of priority in which the drain orders were originally presented for payment. Payment of such orders, including interest earned as provided herein, shall thereafter be made by the county treasurer from the drain order redemption fund. Drain orders at any time during the year in which such drain order becomes due and payable and for a period of 30 days prior to such year shall be accepted for the payment of drainage taxes. The county treasurer shall report to the commissioner the amount paid as interest on any and all such drain orders. The county treasurer shall at the first of each month furnish the drain commissioner with a

report of all drain orders cashed during the preceding month, including the name of the drain upon which the order was drawn, the amount, the number of the order, and the date of payment.

280.246 Advertising rates; fees of judge of probate and other officers. | M.S.A. 11.1246]

Sec. 246. Newspaper publishers shall receive legal rates for advertising. The judge of probate shall receive 10 cents per folio for making exemplified copies of any proceedings had in the probate court and \$2.00 for the appointment of special commissioners, including certified copy of the order of the appointment. Special commissioners may be appointed to determine the necessity of drains and the necessity of taking property for the use of such improvement and appraise damages therefor. Members of boards of review, boards of determination, surveyors and attorneys employed, shall present their account for services rendered and expenses under oath to the board of county auditors in a county having a board of auditors or to the judge of probate in other counties, and it shall be the duty of said board or judge to audit and allow the said accounts and direct the same to be paid from the revolving drain fund of the county: Provided. That in case the board of determination or special commissioners determine said proposed drain is not necessary, payment for all such service shall be made from the general fund of the county.

280.247 Attorney, employment; legal expenses, payment; prosecuting attorney. [M.S.A. 11.1247]

Sec. 247. The county drain commissioner acting under the provisions of this act may employ an attorney when he deems the same necessary and any legal expense shall be charged to the several drain districts in behalf of which he shall be employed. All such expenses shall be paid out of the revolving drain fund which shall be reimbursed out of the first moneys available: Provided. That the board of supervisors by resolution may cause the prosecuting attorney to give such legal assistance as part of his duties.

280.248 Expenses of state director of agriculture or deputy, payment. [M.S.A. 11.1248]

Sec. 248. The state director of agriculture, or any deputy designated by him, shall be paid all his necessary traveling and subsistence expenses actually and necessarily incurred in the discharge of any duties required by this act.

CHAPTER 11.

LEVY AND COLLECTION OF DRAIN TAXES.

280.261 Computation of cost, items included; contingent expenses. [M.S.A. 11.1261]

Sec. 261. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after such appeal shall have been decided, the commissioner shall make a computation of the entire cost of such drain, which shall include (1) all the expense of laying out and designating the drainage district, which item of expense shall include the entire cost of the survey; (2) the expense of locating, establishing and constructing the drain; (3) the fees and expenses of special commissioners; (4) the compensation to be paid the board of review; (5) the cost of construction of bridges and culverts; (6) the contracts for the construction of the drain, or other work to be done on said drain; (7) the estimated cost of an appeal in case the apportionment made by the commissioner shall not be sustained: (8) the estimated cost of inspection; (9) the cost of publishing all notices required; (10) all fees of the probate judge; (11) attorney fees for legal services in connection with the drain; and (12) interest on bonds for the first year, if bonds are to be issued, and he shall add the whole into a gross sum and add thereto not less than 10% nor more than 15% at the discretion of the drain commissioner, of said gross sum to cover contingent expenses, and the entire sum so ascertained shall be deemed to be the cost of construction of such drain.

280.262 Special assessment rolls, filing. [M.S.A. 11.1262]

Sec. 262. The commissioner shall thereupon make a special assessment roll for such drain for each county, township, city or village and each state trunk line highway affected thereby, which roll shall be designated (giving name or number) "drain special assessment roll", and he shall enter therein a correct description of the tracts, parcels or subdivisions of land benefited by such drain and place opposite each description the amount of the per cent heretofore determined upon by him or by the board of review, as the case may be. He shall also enter thereon the amount of the per cent apportioned to such county (for benefits to any county road), township, city or village and the state highway commissioner (for benefits to any state trunk line highway), and in case such amount be payable in installments he shall also enter thereon a memorandum of the installments thereof and of the year or years when such installments shall be spread; and shall add a certificate in writing of the determination whether the taxes assessed for benefits shall be paid in 1 or more years. Such rolls shall be dated and signed by said commissioner and filed on or before the last Wednesday in September in each year, in the office of the county clerk.

Current assessment roll; permanent assessment roll.

The commissioner shall prepare a tax assessment roll in each year for the collection of taxes for the current year, and shall certify the same to the county clerk on or before the first day of the annual meeting of the board of supervisors. In each such roll he shall add to the amount to be collected, interest on all unpaid installments to the date of tax collection. To the roll for the last year he shall add such further amount, if any, as may be necessary together with outstanding uncollected taxes, to pay all outstanding bonds and interest thereon to maturity. In case such roll is made payable in more than 1 installment, a permanent assessment roll may be maintained in the office of the county treasurer, subject to the direction of the board of county auditors, in counties having such a board, and of the board of supervisors in other counties, showing the total cost, the number of installments and the amount of each annual assessment, together with interest charges thereon, which shall be carried in a separate column.

Installment payments.

In case such roll is made payable in more than 1 installment, and the total amount of any assessment is \$10.00 or less, exclusive of interest, then such assessment shall be payable in 1 installment; but if the assessment exceeds the sum of \$10.00 and is made payable in more than 1 installment, then no such installment, exclusive of interest, shall be less than the sum of \$10.00, excepting the final installment, which shall be payable in the amount of the actual balance.

HISTORY: Am. 1963, p. 94, Act 82, Eff. Sept. 6.

280.263 Spread of drain taxes on rolls, time. [M.S.A. 11.1263]

Sec. 263. It shall be the duty of the supervisor, village or city assessor, to spread on his roll the total amount of all drain taxes determined upon by the county drain commissioner to be assessed upon the county, township, city or village at large by adding to the county, township, city or village tax for the year in which the same was assessed and extending said tax in the same column with the general county, township, city or village tax: Provided. That in such villages or cities of this state, where the municipal taxes therefor are assessed and collected prior to the October meeting of the board of supervisors, all taxes ordered to be spread against such municipalities shall be spread during the calendar year following such action by the board of supervisors: Provided further, That in lieu of the addition of such tax to the county, township, city or village tax, the legislative body thereof may in any year provide for the payment thereof from the general or contingent fund of such county, township, city or village. Such supervisor or assessor shall also spread upon said roll, separately, and immediately following the other descriptions, all tracts or parcels of land specified by the commissioner to be assessed for benefits, and shall place opposite each description, in a column marked, "(giving the name or drain taxes," the amount of taxes apportioned thereon, as certified to him by the county clerk.

280.264 Statement of assessments upon township at large furnished township treasurer. [M.S.A. 11.1264]

Sec. 264. The supervisor shall, at the time of the delivery of his assessment roll to the township treasurer, also furnish him with an itemized statement of the several amounts assessed upon the township at large for each particular drain, naming the drain.

280.265 Drain taxes, general tax law applicable, payment under protest, action, lien, personal claim. [M.S.A. 11.1265]

Sec. 265. All drain taxes assessed under the provisions of this act shall be subject to the same interest and charges, and shall be collected in the same manner as state and other general taxes are collected, and collecting officers are hereby vested with the same power and authority in the collection of such taxes as are or may be conferred by law for collecting general taxes. Drain taxes, when collected, shall be returned to the county treasurer to be disbursed by him. In all cases where suit is brought against the collector arising out of the collection of any drain tax, the county shall defend such officer in the same manner that he has now the right to be defended in the collection of general taxes. No suit shall be instituted to recover any drain tax or money paid or property sold therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or sale of such property by, the collecting officer; and if such tax shall be paid under protest the reasons therefor shall be specified, and the same procedure observed as is or may be required by the general tax law. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner or owners of such lands until they are paid.

280.266 Return of delinquent drain taxes; general tax law applicable. [M.S.A. 11.1266]

Sec. 266. If the taxes levied for the construction, cleaning out, widening, deepening, straightening or extending of any drain are not collected by the township, city or village treasurer, they shall by him be returned, together with the lands upon which they were levied, to the county treasurer in the same return, at the same time, and in the same manner, in every respect (naming in each case the particular drain), as lands are returned for state, county and township taxes, and such taxes shall follow such lands, the same as all such other taxes, and all the general provisions of law now existing, or that may be hereafter enacted for enforcing the payment of township, county and state taxes, shall apply to such drain taxes, and to the lands returned delinquent therefor, in the same manner and with like effect.

280.267 Injunction after assessment. [M.S.A. 11.1267]

Sec. 267. After any taxes have been assessed for the construction, location or establishment of any drain, no injunction shall issue to restrain the spreading of the same upon the tax roll nor to restrain the collection thereof, nor shall the same be in any manner stayed, unless the amount of such assessment shall first be paid into the township treasury to be applied upon such tax, in case the court in which the suit upon which injunction is tried shall so order.

280.268 Perpetual injunction not allowed for informalities; plaintiff may show injury. [M.S.A. 11.1268]

Sec. 268. The collection of no tax levied or ordered to be levied for the payment of the location or construction of any drain laid out under this act shall be perpetually enjoined or declared absolutely void in consequence of any error or informality of any officer in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any such drain shall have been located and established, nor on account of any irregularity or informality in the condemnation of right of

way, nor for want of any record thereof; but the court in which any action may be brought to recover any tax or assessment paid, or to declare void the proceedings to locate and establish any drain, or to enjoin any tax or assessment levied or ordered to be levied for the payment of the labor and expense thereof, shall, if there be manifest error in the proceedings, allow the plaintiff in action to show that he has been injured thereby.

280.269 Invalidation proceedings; proofs, correction of damages or assessment, order, costs. [M.S.A. 11.1269]

Sec. 269. The court in which such proceedings are begun shall allow proof that the drain was necessary and conducive to the public health, convenience or welfare, and that all the steps required by law have been substantially complied with, notwithstanding the record required to be kept by the commissioner. In case substantial error is found, the court may correct any gross injustice in the award of damages, or assessment of benefits as may appear after hearing the proofs and allegations of both sides and shall make such order in the premises as shall be just and equitable, and may order that such tax or assessment remain on the tax roll for collection, or order the same to be relevied, or may perpetually enjoin the same, or any part thereof, or if the same has been paid under protest, may order the whole, or such part thereof as is just and equitable, to be refunded. In all cases where assessments shall be set aside after contracts have been let or bonds sold, the decree shall make full provision for payment of work done and materials furnished under said contracts before the commencement of suit, and for payment of such bonds and interest thereon, by reassessment according to benefits, or otherwise as equity may require. The cost of such proceedings, if error or injustice be shown, shall be apportioned among the parties, or if no manifest error or injustice be shown, such costs shall be collected of the party bringing the action.

280.270 Tax lien; proceeding to compel spread of tax; established drains. [M.S.A. 11.1270]

Sec. 270. Whenever any drain has been located and established, and contracts let for its construction, and the work of construction has been completed, or partly completed and the commissioner has made his order establishing the drain, his apportionment of benefits and special assessment roll and filed the same in the office of the county drain commissioner, as provided by this act, and such taxes remain a perpetual lien upon the lands assessed, and filed all of said papers in the office of the county drain commissioner, and no person or municipality affected by the proceedings has taken any action by virtue of section 161 of this act to test the validity of the proceedings, or to set the same aside. and it shall further appear that the tax has not been spread on the tax roll of the municipalities affected and the lien of said tax still remains against such lands, on the application in writing of any person or corporation who is now or were owners of the land assessed at the time of the apportionment of benefits by the commissioner or any person or corporation who were the owners of land at said time and who were assessed therefor, and who sold such land with covenants of warranty, may make an application in writing to the county drain commissioner setting forth such facts, and upon the filing of such application it shall be the duty of the county drain commissioner to make a certified copy of the assessment roll filed in his office by the commissioner and present to and lay it before the board of supervisors at the first October session thereafter of said board, and thereupon it shall be the duty of said board at said session to order and direct such taxes spread upon the tax roll of the municipalities affected thereby, according to the said assessment filed as aforesaid, and as appears by such special assessment roll, so certified to said board. The provisions of this section shall also apply to drains laid out and established and wholly or partly constructed under the provisions of all drain laws in force prior to the passage of this act, where such laws have made such drain tax a perpetual lien upon the lands upon which they are assessed.

280.271 Tax collection suits; tax reassessment. [M.S.A. 11.1271]

Sec. 271. Any drain taxes that may have been assessed and returned upon any lands under and by virtue of the provisions of any drain law heretofore enacted and remaining unpaid, may be sued for by the commissioner of the county in which such delinquent lands are situated in an action of assumpsit before any court of competent jurisdiction and collected from the owner of such lands or such taxes, if properly returned to the county treasurer, may be ordered charged back by the board of supervisors and reassessed upon such lands in the same manner that unpaid or rejected taxes may be charged back by the auditor general and reassessed under the general provisions of law.

280.272 Same; assumpsit, prima facie evidence, judgment based on benefits; authority to sue. [M.S.A. 11.1272]

Sec. 272. In any suit brought for the collection of any unpaid drain taxes by virtue of section 271, the commissioner bringing such suit may declare in an action of assumpsit against the defendant; proof of the amount of the tax, and that it is unpaid, either oral or by the production of the tax roll, shall be prima facie evidence of the plaintiff's right to recover; but the defendant may plead the general issue and give evidence in reduction of damages, and the plaintiff may offer evidence in rebuttal, and if it shall appear from such evidence that the actual benefits to the land by reason of the construction of the drain were less than the amount of the tax, judgment shall be only for the amount of the benefits as proven, with interest and costs: Provided. That no such proceedings shall be instituted by the commissioner at the expense of the county unless he shall be authorized to do so by the board of supervisors.

280.273 New proceedings when tax set aside; report of defects to supervisors, reassessment. [M.S.A. 11.1273]

Sec. 273. In case any drain tax heretofore or to be hereafter assessed shall be set aside, except for causes that would deprive the commissioner of jurisdiction to construct the drain, the commissioner may begin proceedings anew at the stage where they shall be correct. In case a drain tax can or may be set aside for error in description or other defect in the commissioner's or township treasurer's roll, the commissioner shall report the same to the board of supervisors at their October session, who shall order the same reassessed upon the proper description. Such report may be made at any time before the sale of the land for such tax.

280.274 Invalidation proceedings, commissioner as party. [M.S.A. 11.1274]

Sec. 274. In any suit brought to set aside any drain tax, or in any way attacking the legality of any drain proceedings, the commissioner shall be made a party to said suit.

280.275 Drainage district bonds; issuance, terms, sale, premium; application of act; limitation on payment from county general fund. [M.S.A. 11.1275]

Sec. 275. In cases where the issuing of bonds shall have been determined upon, as herein provided, and subject to the provisions of section 221 of this act, the commissioner may borrow money in anticipation of the collection of such installments and may issue as evidence thereof the bonds of the drainage district as herein defined. Such obligations shall specify on their face that they are payable out of the installments of drain taxes to be thereafter collected, and the amount thereof shall not exceed the aggregate of the installments levied. Bonds issued hereunder shall be signed by the commissioner on behalf of the drainage district, shall be countersigned by the county clerk and shall be payable in annual installments equal in number to the installments of taxes, shall mature not earlier than March first nor later than June first of the year following the due dates of the respective installments of taxes. The number of installments shall not exceed 20: Provided, however, That in any drainage district containing a closed drain, any part of whose cross-section has an area exceeding 60 square feet, the number of installments may be, but shall not exceed. 30, and the amount of each installment shall be fixed to correspond as near as may be to

the drain commissioner's estimate of the amount of taxes actually collectible each year, and in no case shall bonds mature more than 21/2 years after the corresponding installment of taxes. The commissioner shall therein pledge the credit of the drainage district, including the lands embraced within such district and the townships, cities, villages, counties and state trunk line highways assessed at large, in the proportion that they are taxed for the benefits received thereby. Such bonds shall be advertised and sold by the drain commissioner after the manner provided for the advertisement and sale of municipal bonds by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948. If any premium is received thereon, such premium shall belong to the fund of the drain. The proceeds derived from the sale of such bonds shall be deposited with the county treasurer to the credit of the drain fund. The county treasurer shall safely keep all such bonds until sold as above provided: Provided, however, That this act shall not be considered to affect any bonds or refunding bonds issued prior to the effective date hereof and subsequent to the effective date of Act No. 331 of the Public Acts of 1927, or any refunding bonds hereafter issued to replace the same: Provided further. That no county shall advance or pay out of its general funds any moneys for or on account of principal or interest of any drain bonds issued prior to the effective date of Act No. 331 of the Public Acts of 1927, or any refunding bonds issued to replace the same.

280.276 Same; intracounty drain; advancement from county general fund, reassessment. [M.S.A. 11.1276]

Sec. 276. In case bonds are to be issued in respect to an intracounty drain in a county now or hereafter having a population of 100,000 or more according to the latest or each succeeding federal decennial census, the county board of supervisors may, by resolution adopted by a majority of its total membership, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds hereafter issued pursuant to this act. This shall not validate any bonds heretofore issued. In the event the county shall be required to advance any money by reason of such pledge, and if the collections from special assessments shall not be sufficient to reimburse the county therefor, the drain commissioner of such county shall, within a 2-year period from the date of advancement, reassess the drainage district as in the first instance in order to provide for the repayment to the county of the sums so advanced. The provisions of this section shall not permit the advancement of any moneys out of the general funds of any county to meet any deficiency in the collection of drain assessments confirmed prior to May 1, 1953.

Am. 1957, p. 43, Act 37, Imd. Eff. May 14; -- Am. 1959, p. 9, Act 10, Imd. Eff. Apr. 20.

280.277 Same; delinquent assessments, advancements by municipalities, reimbursement, reassessment, validation of drain orders or bonds. [M.S.A. 11.1277]

Whenever lands in any city, village or township or combination thereof shall Sec. 277. be assessed for all or any part of the cost of a drain, the governing body of each such cities, villages or townships by resolution adopted prior to the issuance of drain orders and/or bonds in anticipation of the payment of the assessments for such drain may agree that in the event of any delinquency in the collection of the assessments against lands in such cities, villages or townships, the cities, villages or townships shall advance the amount of such delinquency from unobligated funds in the general fund to the extent necessary to pay principal and interest on such drain orders and/or bonds as the same mature. In the event that moneys are so advanced, then the cities, villages or townships shall be reimbursed from the collection of the said delinquent assessments against lands within its boundaries. If the collections from special assessments shall not be sufficient to reimburse the cities, villages or townships, the drain commissioner of such county shall, within a 5year period from the date of advancement, reassess the drainage district as in the first instance in order to provide for the repayment of the sums so advanced: Provided, That this act shall not validate any drain orders or bonds issued prior to the effective date of this act.

280.278 Drainage district bonds; interest on taxes; moneys, disposition; bank deposits. [M.S.A. 11.1278]

Sec. 278. In cases where bonds are issued and sold by the commissioner, all installments of the drain taxes shall bear interest not to exceed the rate of 6% per annum from the date of the preparation of the assessment roll until due. Such bonds may provide, if the commissioner so determines, for the payment of interest semiannually. All of said installments and the interest thereon shall, as collected, be paid into the county treasury and there placed to the credit of the fund of the drain, to be used solely for the payment of bonds as the same shall mature. All moneys thus collected in anticipation of the maturity of the bonds shall be deposited by the county treasurer in a bank or banks to be designated by the board of supervisors of such county and the interest received shall belong to the fund.

HISTORY: Am. 1962, p. 421, Act 191, Eff. Mar. 28, 1963;—Am. 1965, p. 426, Act 249, Imd. Eff. July 21.

280.279 Special assessments, payment in full; notice to commissioner; deficiency assessment. [M.S.A. 11.1279]

Sec. 279. Any person liable to the payment of special assessments for benefits received from the construction of a drain hereunder may pay the same in full with interest to date at any time, subject to the right of reassessment in case of deficiency as herein provided. The foregoing right of prepayment shall extend to the state or any political subdivision thereof, assessed at large for a portion of the cost of a drain. Such payment may be made to the township treasurer, who shall give his receipt therefor and who shall transmit the same to the county treasurer. The latter official shall, on receipt of the same, give notice to the commissioner, who shall make the necessary changes in the rolls covering subsequent installments.

280.280 Drainage district bonds; deficiency assessment, surplus. [M.S.A. 11.1280]

If there is not sufficient money in the fund in a particular drain at the time of the maturity of the bonds last to mature, or any drain orders, to pay all outstanding bonds or drain orders with interest, or to reimburse the county for money which it has been obliged to advance pursuant to section 275 of this act, whether such insufficiency is due to the anticipation of installments as provided in section 279, or to failure to sell any lands for delinquent taxes, or to any other cause, it shall be the duty of the commissioner to at once levy an additional assessment as hereinbefore provided in such an amount as will make up the deficiency which shall be spread in not to exceed 7 annual installments; and if the commissioner determines that the entire amount, if spread in 1 year, would be an undue burden or create unnecessary hardship, he may order it spread over any number of years up to but not exceeding 7: and in case bonds or other evidences of indebtedness are issued pursuant to Act No. 13 of the Public Acts of 1932. First Extra Session, as amended, and Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948, to refund the outstanding indebtedness of a drain district, the governing body of such drain district shall provide, subject to the directions of the municipal finance commission, for such additional levies of assessments prior to the maturity of such refunding obligations as it shall deem necessary to prevent default in payment of interest on such obligations, and the maintenance of a sinking fund for their retirement, and it shall be the duty of every officer charged with the determination of the amount of taxes to be raised, or the levying of such taxes, to make or cause to be made the additional levies as provided. Any surplus remaining after the payment of the bonds and interest shall remain in the county treasury and be used for the maintenance of the drain.

Lands exempted from deficiency assessments; invalid bonds or obligations. Such additional assessments shall only apply to drain orders or bonds issued after the effective date of this act and shall be apportioned, assessed, levied and collected as provided in the first instance. As to deficiency assessments levied for drain orders or bonds

issued after the date of this act there shall be no lands exempted therefrom, except those which at the time of such additional assessments are owned or used as follows: First, lands owned by the United States; second, lands owned by the state of Michigan, except licensed homestead lands, and except lands held under land contracts issued pursuant to Act No. 155 of the Public Acts of 1937, as amended, being sections 211.351 to 211.364, inclusive, of the Compiled Laws of 1948; third, lands owned by any county, city, village, township or school district and used for public purposes; fourth, lands used exclusively for burial grounds; fifth, lands dedicated to the public and actually used as a highway or alley, and not used for gain: Provided. That no such additional assessment shall be levied or collected for the purpose of paying the principal or interest upon any bonds or obligations which have heretofore been held to be invalid, nor shall any such additional assessment be apportioned, assessed, levied or collected for the purpose of paying any bonds, interest or obligations for the payment of which assessments have heretofore been made.

280.281 Special drain assessment; definition of municipal corporation. [M.S.A. 11.1281]

Sec. 281. Any municipal corporation may contract to pay all or any part of a special drain assessment for drain improvements made by any county agency or drainage district benefiting property of the municipal corporation, but in no event shall such payment exceed its proportionate share of the expenses of the improvements. For the purposes of this section, "municipal corporation" means any county, township, charter township, city, village, metropolitan district, public authority or a drainage district.

HISTORY: Add. 1961, p. 43, Act 41, Imd. Eff. May 18.

CHAPTER 12.

REVOLVING FUNDS FOR DRAINS.

280.301 Revolving drain fund; creation, use. [M.S.A. 11.1301]

Sec. 301. At the October session of the board of supervisors immediately following the passage of this act, and annually thereafter as becomes necessary, each and every such board shall appropriate and collect by general taxation from the taxable property within their respective counties for the purpose of creating a revolving drain fund, such sum as said board may deem necessary: Provided, however, That such sum first appropriated shall not exceed the amount held by the county treasurer as a total of all specific and particular drain funds on hand when such appropriation is made. Said revolving fund when so created shall be used and disposed of solely as provided in this chapter.

280.302 Same; use; intercounty drains; expenses after final order of determination. [M.S.A. 11.1302]

Sec. 302. The revolving fund may be used for paying the engineer or surveyor for his services in laying out a drainage district, also any necessary assistance therefor and to pay any and all other preliminary services to the entry of the final order of determination establishing a drain, for paying members of boards of determination for services performed under this act, for necessary repairs on old drains, and also for paying drain orders that are due not in excess of \$2,000.00 if authorized by the board of supervisors. Orders drawn by the commissioner on the revolving fund may be made payable upon the performance of services herein defined. From said revolving fund may be paid the services herein mentioned on any drain or drainage district affecting more than 1 county: Provided, Such total expense is prorated among the several counties affected according to the amount apportioned to be paid by and in said counties respectively for said drain: Provided further, That any and all orders for services rendered or expenses incurred after the entry of the final order of determination shall be paid in the manner prescribed in chapter 10, being sections 241 to 248 of this act.

HISTORY: Am. 1963, p. 316, Act 215, Imd. Eff. May 17; -Am. 1963, p. 372, Act 228, Eff. Sept. 6.

280.303 Same; accounting records, reimbursements. [M.S.A. 11.1303]

Sec. 303. It shall be the duty of the county treasurers to carry as a separate account upon the books of their office said revolving fund and all accounts and items pertaining thereto. A record shall be kept of the amount of money paid from said revolving fund for the use and benefit of any particular drain and upon payment to the county treasurer of the taxes assessed for said particular drain, the county treasurer shall, out of the first moneys received therefor, transfer to the revolving fund such sum or sums so expended.

280.304 Same; deposit in bank; interest. [M.S.A. 11.1304]

Sec. 304. The said revolving fund shall be deposited in the bank of the county offering the highest rate of interest on daily balances, final determination to be made by the board of supervisors of the particular county, the interest so received to be paid into and become a part of said fund.

280.305 Same; transfer to particular drain fund of moneys under former law, use. [M.S.A. 11.1305]

Sec. 305. When the moneys for the revolving fund shall have been appropriated, the county treasurer shall immediately transfer back to each particular drain fund any unexpended moneys due in such fund then on hand and carried in any revolving fund by virtue of any pre-existing law, said moneys when so transferred to be used solely for the use and benefit of the particular drain for which they were raised.

280.306 Same; expenditure before completion of improvement of drain, apportionment. [M.S.A. 11,1306]

Sec. 306. Whenever revolving fund moneys have been expended and no improvement has been completed subsequent to the commissioner's order designating a drainage district as prescribed in section 54 of this act where an intracounty drain is involved within a period of 5 years, the drain commissioner of such county which has expended such revolving fund moneys shall report such fact to the board of supervisors, and if the sum involved is too small to justify spreading the same over the designated district above referred to such board of supervisors may order the sum to be spread against the property of the original petitioners according to such percentage as the commissioners shall deem just and equitable, based on the same benefit theory as if the improvement had been completed. If the sum involved is large enough to, in the opinion of the board of supervisors, create undue hardship on the original petitioners, the board of supervisors may order the same spread over such designated district: Provided, however, That if the same is ordered to be spread over the district, the commissioner shall apportion the cost thereof to the parties benefited in the district as provided in chapter 7, being sections 151 to 161, inclusive, of this act, for the purpose of permitting a review of the roll as to fairness of the apportionment only.

280.307 Same; intercounty drain, apportionment, review, recovery of moneys. [M.S.A. 11.1307]

Sec. 307. Whenever revolving fund moneys have been expended and no improvement has been completed subsequent to the order designating a drainage district as prescribed in section 105 of this act where an intercounty drain is involved, within a period of 5 years, the drainage board created in section 102 of this act shall apportion the cost as between counties. Any drain commissioner feeling aggrieved by such apportionment may request review by the board of review provided in section 106 of this act, and such board shall proceed to review the same as provided in this act. The decisions of the board of review shall be final. Thereafter the amount apportioned to each county shall be recovered by each county as above outlined for the recovery of revolving fund moneys expended for an intracounty drain in section 306 of this act.

CHAPTER 13. HIGHWAYS.

280.321 Drains in public highways, permit; release of right of way. [M.S.A. 11.1321]

Sec. 321. Drains may be laid within or across the right of way of any highway, provided it shall be necessary for the county drain commissioner to obtain first a permit from the highway authority having jurisdiction. If title in fee simple be not in the highway authority, said commissioner shall also obtain a release of right of way for the purposes of such drain from the owner of the land, as provided in sections 73, 74 and 75 of this act.

280.322 Drains in public highways; cost of construction; contract; maintenance, bridges or culverts to farms. [M.S.A. 11.1322]

Sec. 322. When any drain crosses a highway, the necessary bridge or culvert shall be constructed on the center line of the highway as located by survey, and in accordance with plans and specifications which shall be approved by the county road commission having jurisdiction, or by the state highway commissioner if such highway is a state trunk line. The cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of construction of such drain. The board of county road commissioners or the state highway commissioner shall assume and bear such portion of the cost of construction, based upon benefits, as may be agreed upon with the drain commissioner. In such case, the contract for the construction of the bridge shall not be let by the drain commissioner without the written consent of the state highway commissioner or the board of county road commissioners. Thereafter such bridge or culvert constructed under the provisions of this act shall be maintained by the county road commission or state highway commissioner. Any such expense charged to the state highway commissioner shall be met out of any funds appropriated for the state highway department that may be available therefor; and any such expense to be borne by the board of county road commissioners shall be paid out of moneys in the county road fund not otherwise appropriated. As part of such drain, there shall be constructed at least 1 bridge or culvert across such drain connecting the highway (except limited access highways established under Act No. 205 of the Public Acts of 1941, as amended, being sections 252.51 to 252.64 of the Compiled Laws of 1948), with each farm entrance, and when a drain crosses a farm or any portion thereof there shall be constructed I bridge, culvert or ford across the drain connecting the portions of the farm disconnected by the drain, which bridge, culvert or ford shall also be charged in the first instance as a part of the construction of such drain, after which such bridge, culvert or ford shall be maintained by the owner of the land. If the drain commissioner shall make future improvements such as widening, deepening, straightening or relocating such drain, but not clean out alone, there shall be constructed the necessary bridges, culverts and fords as parts of such improvements.

HISTORY: Am. 1965, p. 139, Act 107, Imd. Eff. June 30.

280.323 Same; open, consent, restrictions, assessments for state trunk line highways. [M.S.A. 11.1323]

Sec. 323. Before an open drain shall be laid along a public highway, the highway authorities having jurisdiction over the road shall be consulted and his or their consent as to the proposed location of the drain shall be obtained in writing, stipulating that no excavation may be made nearer than 26 feet to the center line of the highway and stating what disposition shall be made of all material excavated. It shall be the duty of the commissioner to level down all materials placed in the roadway. Whenever an apportionment is made against a state trunk line highway, the amount of the assessment based on such apportionment shall be paid out of any state trunk line highway funds on hand in the state treasury. On or before December first of the year when such assessment is made, the drain commissioner shall certify to the auditor general the amount due from the state to such drainage district by reason of the assessment of benefits, and the auditor general shall, if satisfied of the correctness of such certificate, cause the same to be paid within 30 days thereafter.

Drains constructed prior to 1923.

When a ditch or drain has been constructed prior to 1923 primarily for drainage of private lands, and constructed along a public highway, and the records including the original survey of such drain are not of public record nor turned over to the county drain commissioner or have not been entered in the records of the county drain commissioner as a county drain, then the actual location of such drain shall be sufficient to make such drain comply with the provisions of this act with respect to the location thereof, and such drain shall be a county drain upon compliance with the other provisions of this act with respect to county drains: Provided, however, That no proceedings shall be instituted for the widening of such drain or the deepening thereof below its original bottom.

280.324 Drainage across adjacent lands; right of way. [M.S.A. 11.1324]

Sec. 324. Whenever it is necessary or more convenient for the proper drainage of any highway in this state that the surplus water be taken onto or across the land adjacent thereto, the county road commission of the county in which said highway is situated may secure the right of way and may open such drain or outlet for the water, and for these purposes may use any highway moneys of the township in which said highway is situated, not otherwise appropriated, and such sums as may be voted for that use by the electors of the townships. The county road commission shall secure the right of way for any such drain by gift or purchase from the owners of the land to be crossed by such drain; but in case of purchase the purchase price must be approved by the township board whenever township funds are involved, before any money be paid thereon. Such right of way shall be acquired by deed duly executed by the owner or owners of the lands sought to be crossed by the said drain, and shall be taken in the name of the township wherein the same is located, and filed in the office of the register of deeds of the county before any highway money shall be expended in opening such drain outside the highway limits.

Approval of purchase of right of way by township board.

Before the township board approves the purchase price of any drain right of way under this section, the county road commission shall submit to the board for its approval details of the proposed drain, with specifications that the drain shall be constructed in accordance with good health and sanitation standards and in such a manner as not to constitute a hazard to health or safety and that in construction of the drain the township board shall approve the use of the land upon which the drain is to be located.

HISTORY: Am. 1962, p. 83, Act 94, Eff. Mar. 28, 1963,

280.325 Cost to township for highway drainage, report by county road commission, drain fund. [M.S.A. 11.1325]

Sec. 325. The county road commission shall report to the electors of the township at their annual meeting the amount of money expended by him during the year for such highway drainage, specifying the amount expended on each drain. The commission shall also recommend the raising of such sums as it may deem necessary for opening drains from the highway during the coming year, specifying each proposed drain and the probable amount needed for securing the right of way and opening the same. The money voted for this purpose by the electors of the township shall constitute a special highway drain fund, and shall be used for no other purpose. In case any money be left in the fund, after opening the drain for which it was raised, it may be used in opening any other highway drain in the township, or in cleaning out, when necessary, those already opened.

280.326 Construction report; restriction on county road commission. [M.S.A. 11.1326]

Sec. 326. On the completion by the county road commission of any drain constructed under the provisions of this act, it shall be the duty of said county road commission to file in the office of the drain commissioner a detailed report of the construction of such drain, giving the date of construction, the termini and general course thereof, together with a copy of the deed by which the right of way therefor was secured. Nothing in the provisions of the preceding sections shall be construed as giving to the county road commission power to lay out and construct drains having any other purpose than the drainage of highways.

280.327 Highway drain; petition, procedure, jurisdiction of commissioner. [M.S.A. 11.1327]

Sec. 327. In case it becomes necessary for the construction or maintenance of any highway to take the surplus water across adjacent lands, the state, county or township highway commissioner or county road commissioners may make under his or their name of office an application or petition to the drain commissioner of the county in which such highway is situated to lay out and designate a drainage district, locate and establish a drain, clean out, widen, deepen, straighten or extend an established drain. Such application or petition shall conform to the law regulating applications or petitions for the laying out and designating a drainage district, locating and establishing of drains, and cleaning out, widening, deepening, straightening and extending established drains, and shall require no other signature than his own as highway commissioner or county road commissioners. Such application or petition shall have the same force and effect, and be subject in other respects to the same laws and regulations that govern other such applications or petitions and shall confer the same jurisdiction and authority on the county drain commissioner to lay out and designate a drainage district, locate and establish a drain, or clean out, widen, deepen, straighten or extend an established drain: Provided, That in cases where the state highway commissioner makes such application or petition he shall serve a copy of such application or petition on the director of agriculture, who shall within 30 days hold a meeting at some place in the drainage district for the purpose of determining the practicability or necessity of such drain, and no board of determination shall be necessary to pass on those questions. Said meeting shall be held, notice given and all persons interested may be heard in the same manner as provided in section 102 or section 122 of this act. The determination of the director of agriculture shall be filed with the drain commissioner.

CHAPTER 14. RAILROADS.

280.341 Drains along railroad; release of right of way; consent. [M.S.A. 11.1341]

Sec. 341. Drains may be laid along the line of any railroad within its right of way: Provided. That such drain shall not be to the injury of the roadbed. Whenever it is proposed to construct a drain along the line, and within the right of way of any railroad, and the company owning or operating such road shall refuse or neglect to permit such drain to be constructed, or release the right of way therefor within the time prescribed in section 75 of this act, such release shall be obtained in the same manner as is provided in this act for obtaining private lands: Provided. That no drain shall be constructed along the line of any railroad without the consent of the company owning or operating such road, if it shall appear to the special commissioners that such drain can equally well be laid on private lands.

280.342 Drains across public utility right of way; mandamus to compel opening; costs. [M.S.A. 11.1342]

Sec. 342. Whenever it is necessary to lay out and establish, deepen or widen, or both, or extend or straighten a drain across the right of way or roadbed of any railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company, the same proceedings shall be had throughout in all respects as cases provided in this act for obtaining private lands, except as herein provided. The damages and compensation to be awarded by the special commissioners shall include the legal damages for the making of the opening required in the drain proceedings. After damages as aforesaid shall have been determined, it shall be the duty of the railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company, when notified by the commissioner so to do, to make and maintain the necessary opening through its roadbed or right of way and to build and maintain a suitable culvert or crossing for such drain. Notice in writing to make such opening and to construct such culvert shall be served upon such company by leaving

a copy thereof with the ticket or freight agent or general officer of such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company at least 30 days before such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company shall become liable. In case such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company shall neglect for 30 days after service of such notice as aforesaid, the commissioner shall have the right to petition the circuit court, in addition to any other remedies which may exist, of the county in which such crossing is located, to compel such company to make such opening forthwith; and such circuit court shall, if it finds there is legal right to such opening, order the same to be forthwith constructed by said company, and issue its writ of mandamus therefor. At least 10 days' notice shall be given such company of such application, and thereafter such proceedings shall follow the practice of circuit courts in mandamus proceedings. Said matter shall be heard and determined as speedily as practicable, and take precedence over all other cases which may be pending in such court. Such costs may be awarded the prevailing party as are awarded in other motions for mandamus.

280.343 Penalty. [M.S.A. 11.1343]

Sec. 343. In case such railroad company shall refuse or neglect to comply with the provisions of section 342, it shall be liable to a penalty of \$10.00 for each day's refusal or neglect to make such opening and construct such culvert.

CHAPTER 15.

DAMS IN DRAINS

280.351 Dams in drains to control flow, water levels and seepage; removal of drainage by pumps. [M.S.A. 11.1351]

Sec. 351. Established drains may be improved for the benefit of those whose lands were improved by the original construction of such drain, by the construction, operation and maintenance of dams in drains to control flow, water levels and seepage and to provide for the removal of the drainage when necessary by the use of pumps and other mechanical operations.

280.352 Same; petition, signers, contents, examination, finding. [M.S.A. 11.1352]

Sec. 352. When it appears upon the written petition of a number of freeholders in the drainage district equal to 50% of the number of freeholders whose lands are traversed by said drain from the point where said dam or dams are located to the upper terminus, that such improvement is desired to be made by damming such drain and maintaining and operating such dam or dams to control flow, water levels and seepage or to provide for pumping the drainage where necessary from said drain or watercourse, and that such improvement and the maintenance and operation of such dam or dams is necessary to properly drain said lands and to protect the lands through which said drain runs, or to protect the rights of freeholders above such dam or dams, or the rights of freeholders of land adjacent or contiguous to the drainage district, or for the purpose of irrigation, said petition stating where it is desired to construct said dam or dams and the proposed method of operation of such dam or dams to control flow, water levels or seepage, or how the drainage is to be removed and where it is to be emptied, the commissioner shall, as soon as practicable after receipt of such petition, proceed to examine said drain and pass upon the necessity of such improvement and whether such improvement is practicable and conducive to the public health, convenience or welfare, or an improvement or necessity to preserve the adjoining lands thereto, or to protect rights in lands, or for the purpose of irrigation.

280.353 Same; first order of determination, contents. [M.S.A. 11.1353]

Sec. 353. If such commissioner determines such improvement, as set forth in the petition, to be practicable and a necessity to properly drain such lands, or to protect rights in lands, or for the purpose of irrigation to be conducive to the public health, convenience or welfare, or to preserve or protect the adjoining lands thereto, he shall within 60 days make an order of determination in writing, thereby stating where such dam is to be constructed and to designate its dimensions and to designate, where necessary, the method by which the drainage is to be carried away and where it is to be emptied.

280.354 Same; construction contract with owners of lands benefited; default, contract for completion, costs and expenses. [M.S.A. 11.1354]

Sec. 354. If at any time after the commissioner has issued his first order of determination declaring such improvement to be necessary, and before the letting of any contract for constructing the same, all of the owners of the land through which or for the benefit of which such drain is located shall by themselves, their agents or attorneys, pay to the commissioner all the costs and expenses thus far incurred by him, and shall severally or jointly enter into a contract, with good and sufficient sureties and in such sum as the commissioner may require, to construct such improvements on such drain and pay all expenses necessary to be incurred in the construction, maintenance and operation of the same, then the commissioner may contract with such owner or owners, and such improvements when accepted shall be certified by the commissioner as a drain constructed in pursuance of the provisions of this act, and shall be recorded in the same manner as other drains. If such contract is not fulfilled in the time limited therein, the commissioner shall contract with other parties for the completion of the work and the parties so in default and their sureties shall be liable for all costs and expenses attending such default.

280.355 Same; supervision of work; governing provisions. [M.S.A. 11.1355]

Sec. 355. All work done under the provisions of this act shall be under the supervision of the commissioner. All the provisions of this act relative to proceedings after the filing of petition for the determination of the necessity, institution of condemnation proceedings and proceedings had thereon and the construction, operation and maintenance of the improvements mentioned in such petition, and the assessment and review and levy and collection of taxes and all other provisions of said act not inconsistent with the provisions of this act shall be applicable in the construction, operation and maintenance of dams and the better maintenance of such drainage work by embanking, pumping or other mechanical operation or other work under the provisions of this act.

280.356 Same; intercounty drains; governing provisions. [M.S.A. 11.1356]

Sec. 386. Each and every act required by the foregoing sections of this chapter to be done and performed by the commissioner shall be done and performed by the drainage board where the petition for the establishment of such dam relates to or affects drains traversing more than 1 county or affecting lands in more than 1 county. On receipt of such petition it shall be the duty of such commissioner to notify the commissioner of each county affected and the state director of agriculture and call a meeting in the manner and at the time provided by section 102 of this act.

CHAPTER 16

SPECIAL COUNTY COMMISSIONER

280.381 Disqualification of commissioner; petition filed with probate judge. [M.S.A. 11.1381]

Sec. 381. Whenever the commissioner of any county shall receive a petition asking for the laying out, construction, cleaning out, deepening or widening of any drain, or a petition asking proceedings by virtue of which any assessment upon lands for benefits received would result, wherein such commissioner shall be interested by reason of himself, wife or child, owning lands that would be liable to an assessment for benefits upon the work or proceeding proposed to be done or had, and in cases where such commissioner may be otherwise disqualified to act in the making of apportionment of benefits, such commissioner shall file a copy of such petition with the judge of probate of the county, together with a statement signed by him, showing that he is disqualified to act in making such apportionment of benefits.

280.382 Same; appointment of disinterested commissioner, duties as to county drain. [M.S.A. 11.1382]

Sec. 382. Upon receiving such petition and certificate aforesaid, the judge of probate shall within not less than 15 days, appoint a disinterested commissioner of an adjoining or nearby county to make the apportionment of benefits on said drain. It shall be the duty of said disinterested commissioner, so appointed, to make and complete within a period of 30 days, or within such reasonable time thereafter as may be necessary, an apportionment of the benefits of said drain and file the same with the said disqualified commissioner, and said apportionment shall be adopted for said drain, subject to the same rights of appeal as provided in this act. Said disqualified commissioner shall furnish the commissioner so appointed with a copy of his final order of determination on said drain.

280.383 Same; appointment in case of intercounty drain. [M.S.A. 11.1383]

Sec. 383. In the case of a drain affecting more than 1 county, and any commissioner shall be disqualified to make the apportionments thereon, a commissioner for the county shall be appointed in the manner herein provided, with powers and duties mentioned in this

280.384 Disinterested commissioner; salary and expenses, assessment. [M.S.A. 11.1384]

Sec. 384. The salary of the commissioner so appointed, which shall be the same as that received by him from the county of which he is commissioner, together with all expenses actually and necessarily incurred by him, shall be assessed against the drain in connection with which said services were performed and shall be paid in the same manner as other expenses are paid.

CHAPTER 17.

ABANDONED AND VACATED DRAINS—DISPOSAL OF FUNDS.

280.391 Abandoned or vacated drains, procedure; private rights; new drain. [M.S.A. 11.1391]

Sec. 391. Any drain or part thereof which has ceased to be of public utility and is no longer necessary or conducive to the public health, convenience and welfare may be declared to be abandoned and vacated in the manner herein provided. Any 5 freeholders of lands in a drainage district or the governing body of any public corporation in whose limits a drain or part thereof is located may petition for the abandonment and vacation of a drain or part thereof. The petition shall be addressed to and filed with the commissioner or drainage board having jurisdiction of such drain. The commissioner or drainage board

shall hold a meeting to hear objections to the petition and to the abandonment and vacation of a drain or part thereof therein requested, and shall give notice of such meeting by posting in 5 public places in the drainage district and by publication in a newspaper of general circulation in the drainage district which posting and publication shall occur at least 10 days before the date of such meeting. Private rights of persons acquired by reason of the establishment and construction of such drain or part thereof shall not be interfered with, or in any way be impaired by such abandonment and vacation. If it is determined at such meeting that the drain or part thereof should be adandoned and vacated, the commissioner or drainage board shall issue an order to that effect and file the same with the commissioner of the county or counties involved. Easements or rights-of-way for the drain or part thereof abandoned and vacated or easements or portions thereof no longer necessary for drainage purposes shall be conveyed or released by the commissioner or drainage board on behalf of the drainage distict. If it be contemplated to construct a new drain or part thereof on or near the line of an existing drain or part thereof this may be accomplished without abandonment and vacation of the existing drain or part thereof and the easements or rights-of-way of the existing drain or part thereof may be used for this purpose: Provided, however. That if the contemplated project materially damages the property owner beyond the existing easement, or if it materially burdens the existing easement, then the commissioner or drainage board shall secure an additional easement for the contemplated project. It shall not be necessary to abandon and vacate an existing drain or part thereof made unnecessary by a new drain or part thereof until the new drain is contructed and ready for service.

HISTORY: Am. 1964, p. 106, Act 107, Eff. Aug. 28

280.392 Same; notices; disposal of money in drain funds. [M.S.A. 11.1392]

Sec. 392. Whenever any drain shall have been declared vacated and abandoned, as provided in section 391, it shall be the duty of the commissioner to serve notice thereof forthwith upon the county treasurer of the county or counties in which the drainage district, or any portion thereof, is situated. If there be any money credited to or belonging to the fund of such vacated and abandoned drain, it shall be the duty of the county treasurer or treasurers to transfer and pay over the same to the treasurer or treasurers of the township or townships in which the drain was located or in which assessments for benefits to be received from such drain have been assessed and collected: Provided. That in all cases where the amount of such money belonging to the drain fund of such drain, in the hands of the county treasurer, shall be insufficient to permit the refunding and paying over to such township treasurers all of the moneys assessed and collected in such townships, the county treasurer shall prorate the amounts so paid, and each township treasurer shall be entitled to receive such proportion of the moneys remaining in the fund of the vacated or abandoned drain as the total amount of the assessments levied and collected in his township and becoming a part of such drain fund shall bear to all of the moneys assessed and collected and making up such fund. In case it is necessary to prorate in the manner provided, the county treasurer shall furnish to each township treasurer a statement showing the amount of money in the fund at the time such drain was declared vacated and abandoned, and the various amounts assessed and collected for such fund from the different townships entitled to share in the disbursement thereof.

280.393 Same; duties of township treasurer in distribution of funds. [M.S.A. 11.1393]

Sec. 393. Upon receiving such money, and the accompanying statement, if required to be furnished hereby, the township treasurer shall give his receipt therefor to the county treasurer. He shall also serve notice upon each person, firm or corporation who, as shown by the records of his office, shall have paid a special tax for benefits received or to be received from the construction of such drain, that such drain has been declared vacated and abandoned and that the payment as aforesaid has been made to him by the county treasurer. Similar notice shall also be served upon the township board and shall be published for 2 successive weeks in some newspaper published and circulating in said

county. Thereupon, every such person, firm or corporation shall be entitled to demand and receive from said township treasurer the amount of the special assessment that such person. firm or corporation may have so paid. The amount of the special tax for the construction of such drain that may have been assessed and collected from the township at large shall be credited to and paid into the contingency fund in the township treasury: Provided, however. That if the amount of money paid over to the township treasurer by the county treasurer in the manner aforesaid is less than the aggregate amount of special assessments levied and collected in such township for the construction of such drain and the tax levied and collected upon and from the township at large, then the township treasurer shall prorate the payments to each such person, firm or corporation and the amount to be paid into the general fund in the township treasury; and each such person, firm or corporation and the contingency fund in the township treasury shall be entitled to receive such proportion of the amount of the special assessment or tax paid thereby as the amount of money paid to the township treasurer by the county treasurer shall bear to the total amount of special assessments and taxes levied and collected in said township and paid into the fund for the construction of said drain.

280.394 Same; disposal of funds, payments by township treasurer. [M.S.A. 11.1394]

Sec. 304. In case any person who might be entitled to be paid any sum of money in accordance with this act because of a special assessment or tax paid by him for the construction of such drain shall have died, payment as aforesaid shall be made to his personal representatives or to those entitled under the law to take and receive any personal property of which such person so dying may have been possessed at the time of his death. of any payment made by a firm that shall have been dissolved, payment to any member of said firm shall be deemed a compliance herewith on the part of the township treasurer: Provided however. That if no person who was a member of such firm is surviving or can be found, payment may be made to the distributees of any member: Provided further, That when any person claiming an interest in the amount to which any firm would if still in existence, be entitled shall notify the township treasurer to withhold payment pending a determination of the rights of various claimants, it shall be the duty of the township treasurer to retain the amount involved for such a reasonable time as will permit such determination to be made. In all cases where a corporation that would, if existing, be entitled to receive a payment of money under the provisions of this act has been dissolved and its affairs wholly wound up, and in all cases where it is impossible to find the person or persons entitled to any sum of money herein, such amount or amounts shall, after a lapse of 2 years from an after the publication of notice provided for in section 393 hereof, be paid over by the township treasurer into the general fund of the township.

280.395 County drainage district wholly within township, city or village, transfer of jurisdiction, approval. [M.S.A. 11.1395]

Sec. 395. The county drain commissioner may relinquish jurisdiction and control to a township, city or village of any county drainage district upon which there is no outstanding indebtedness or contract liability and which is wholly located within the boundaries of a township, city or village, and thereafter the county drain commissioner shall be relieved of, and the township, city or village shall assume, the maintenance, jurisdiction, control and operation thereof and its future operation shall be financed in the same manner as is provided for special assessment districts within such township, city or village: Provided. That such proceeding shall have first been approved by a majority of the members elect of the county board of supervisors and by the resolution of the governing body of the township, city or village in which such drain is located.

Distribution of drain fund.

Any money which shall be in the drain fund of any such drainage district at the time jurisdiction over it is transferred as provided in this section shall be distributed in the same manner as is provided in sections 391 to 394, inclusive, of this act in the case of abandoned or vacated drains.

HISTORY: Am. 1957, p. 138, Act 120, Imd. Eff. May 24.

280.396 Transfer of drain project to county department of public works. [M.S.A. 11.1396]

Sec. 396. In any county which has established a department of public works under the provisions of Act No. 185 of the Public Acts of 1957, being sections 123,731 to 123,786 of the Compiled Laws of 1948, the drain commissioner, if in his judgment any project in process of completion or which has been completed can more adequately or feasibly be handled by the department of public works, may file a written report to that effect with the county clerk. The report shall be filed in duplicate, and immediately upon receipt, a copy shall be forwarded to the department of public works and the clerk shall present the drain commissioner's recommendation to the board of supervisors at the next meeting. If the board of supervisors approves the drain commissioner's recommendation it shall, by resolution, so indicate and direct transfer of jurisdiction over the project to the department of public works. Any money which is in the drain fund of any district or belonging to such project at the time jurisdiction over it is transferred shall be promptly transferred and used by the department of public works for the purpose for which it was accumulated. All assets, files, maps, drawings, specifications, records of procedure, assessment rolls or other data pertinent to the project shall be transferred to the department of public works. Thereafter, the department of public works shall be responsible for further proceedings and the drain commissioner relieved therefrom.

HISTORY: Add. 1958, p. 70, Act 64, Imd. Eff. Apr. 9.

CHAPTER 18.

OBSTRUCTIONS IN DRAINS; SEWAGE; MISCELLANEOUS PROVISIONS.

280.421 Obstructions; removal; expenses, notice; livestock; criminal complaint. [M.S.A. 11.1421]

Whenever any person shall obstruct any established drain, it shall be the duty of the commissioner to cause such obstruction to be removed. Any lessening of the area of a drain, which area shall be a cross section of the drain, shall be deemed to be an obstruction. The person causing such obstruction shall be liable for the expense attendant upon the removal thereof, together with the charges of the commissioner, and the same shall be a lien upon the lands of the party causing or permitting such obstruction, and all of the expense shall by the commissioner be reported to the board of supervisors, together with the report of his doings in the premises, and by said board ordered spread upon the land of the offending party, should the same remain unpaid: Provided, That the offending party causing such obstruction shall be given a notice in writing of at least 5 days to remove such obstruction. This provision as to obstruction of any drain shall not apply where the obstruction was caused by natural causes, but the owner of the stock who shall permit his horses, cattle, pigs and other stock to obstruct any drain by tramping in it shall be deemed to be the party causing such obstruction. Nothing contained in this section shall in any way impede or bar the right of any person to make criminal complaint under any existing law for any obstruction of a drain.

280.422 Obstructions; public utility companies; removal, mandamus. [M.S.A. 11.1422]

Sec. 422. Railroad or railway companies, telephone, telegraph, or pipeline companies and other utilities shall not obstruct established drains, nor shall they lessen the area of any drain through their track bed or right of way. The area herein referred to is a cross section of the drain. In case any such company or utility, without legal right, has constructed or shall construct any bridge, culvert, pipeline or conduit over any established drain whereby the area aforesaid is decreased, the removal of such bridge, culvert, pipeline or conduit shall not be deemed an element of damage in proceedings to deepen and widen such drain through such track bed or right of way. In case it is proposed to construct a pipeline, sewer or conduit within, over or across any county, such construction shall be of a nature and laid at such a depth at the point of crossing of any established public drain as will not interfere with said established public drain. The consent of the county drain commissioner or board of public works of any municipality shall be obtained before the work of such construction is commenced and such drain commissioner is hereby authorized to grant such consent upon such terms and conditions as may be reasonable and proper under the circumstances then existing. In case any railroad or railway company, telephone, telegraph or pipeline company or other utilities shall obstruct any established drain, or has constructed or shall construct any bridge, culvert, pipeline or conduit, sewer or other structure over, under or through any established drain, leaving less capacity to the drain than such drain is legally entitled to, in accordance with the rights for such drain as established by proper drain proceedings or as established by other legal methods prior to the date of construction of any such obstruction, the county drain commissioner or the board of public works, as the case may be, may, by mandamus proceedings in the circuit court of the county in which such obstruction shall occur, compel the removal of such obstruction. If necessary, issues of fact may be framed in such proceedings. In case the court shall find such drain to have been obstructed, it shall issue a preemptory mandamus compelling such company to remove such obstruction. The court may award costs in its discretion as in other mandamus proceedings. The practice herein shall be the same as in other motions for mandamus.

HISTORY: Am. 1959, p. 407, Act 261, Imd. Eff. Aug. 21.

280.423 Use of drain for sewage disposal; construction to purify flow; apportionment of costs; acquisition of land; unlawful use; service fee. [M.S.A. 11.1423]

Sec. 423. It shall be unlawful for any municipality, industry, public or private corporation, individual, partnership association, or any other entity to continue to discharge or permit to be discharged into any county drain or intercounty drain of the state any sewage or waste matter capable of producing in said drain or drains detrimental deposits, objectional odor nuisance, injury to drainage conduits or structures, or such pollution of the waters of the state receiving the flow from said drains as to injure livestock, destroy fish life or be injurious to public health; Provided, That nothing herein contained shall be construed to prevent the conveyance of sewage or other waste through drains or sewers that will not cause the above named injuries. Disposal plants, filtration beds and other mechanical devices as will properly purify the flow of any drain may be constructed and become a part of any established drain, the cost of construction thereof to be paid for in the same manner as other drainage costs as in this act provided. Such plants, beds or devices may be described in the petition for the location, establishment and construction of drains or in the petition for the cleaning, widening, deepening, straightening or extending of drains, or in the application for the laying out of a drainage district. Petitions for the construction of such plants, beds and devices for use on any established drain may be filed by the same persons and shall be received and all proceedings had thereon in the same manner as other petitions for any drainage construction under this act. If the state commissioner of health shall determine that sewage carried by any existing county or intercounty drain constitutes a menace to the public health, and that the cleaning out of such drain or the construction of disposal plants, filtration beds or other mechanical devices to purify the flow of such drain is necessary to public health, he may file his findings with the water resources commission, who may file a petition with the drain commissioner of the county in which such drain is situated or with the drainage board having jurisdiction, as the case may be. The said petition may call for the construction of said disposal plant or other appropriate measures by which the said nusiance or menace to health may be abated. A copy of the findings of the state commissioner of health shall be attached to said petition which shall require no other signature than that of the water resources commission under their name of office, but shall otherwise conform to the law regulating such petitions. Plans and specifications for the construction as part of a drain of any disposal plant, filtration bed or other mechanical device to properly purify the flow of such drain shall be prepared, subject to the approval of the state commissioner of health, and shall be filed with the drain commissioner or the drainage board, as the case may be. Contracts for such construction shall be let in the manner provided in chapter 9, being sections 221 to 223, inclusive, of this act. To meet the cost of such construction the drain commissioner or the drainage board, as the case may be, shall apportion the per cent of such cost among the several parcels of land, highways and municipalities benefited thereby. The costs and charges for maintenance shall be apportioned and assessed each year. In case the apportionment shall be the same as the last recorded apportionment, no day of review shall be necessary, but in case the apportionment shall be changed, notice of a day of review shall be given to each person or municipality whose percentage has been raised. Land may be acquired as a site for the construction of such plants, beds and devices, and releases thereof may be obtained in the same manner as other lands for right of way as in this act provided. It shall be unlawful to connect sewage or other waste to county or intercounty drains except with the written approval of the appropriate commissioner or the drainage board, as the case may be, endorsed upon a written application for such service and the payment of a service fee of not to exceed \$50.00 for each connection to a covered drain. This fee shall be set and collected by the drain commissioner, as approved by the board of supervisors or the drainage board, as the case may be, and deposited with the county treasurer, to be credited to the drain fund set up for the maintenance or construction of such drain. The commissioner or the drainage board, as the case may be, shall keep a record of applications made and his action thereon. The commissioner or the drainage board, as the case may be, is hereby authorized to reject applications for or require such necessary modification in requested applications for sewer connections to county drains as to attain the objectives set forth in this section.

Penalty.

Failure to comply with any of the provisions of this section shall, upon conviction thereof, subject the offender to the penalty or penalties described in section 602 of this act.

280.424 Inadequate disposal or filtration plant; abatement of nuisance; estimate of annual cost, appeal, notice, posting. [M.S.A. 11.1424]

Sec. 424. Whenever a disposal plant, filtration plant or other mechanical device to purify the flow of such drain or sewer has been heretofore constructed, but is inoperative or improperly operated and, in the opinion of the state commissioner of health the public health is endangered by reason thereof, said state commissioner of health may file with the judge of probate of the county in which said facilities are located, a petition reciting his findings and recommendations as to how the menace to health may be corrected or the nuisance may best be abated and how the improperly operated or inoperative disposal plant, filtration plant or other mechanical device to purify the flow of a drain or sewer should be operated. Upon satisfying himself as to the reasonableness of said recommendations, it shall be the duty of the judge of probate of said county to direct the drain commissioner of said county to prepare a plan for and estimate the annual cost of executing the recommendations of the state commissioner of health, and/or of rehabilitation, ordinary maintenance and operation of said improperly operated or inoperative facilities, to prepare a map showing the extent of the area contributing to said condition, and to make a determination of the annual expense thereof apportioned according to benefits to the state highways, cities, villages and townships benefited by the same. Upon receipt of the map, tentative assessment district and other information from the county drain commissioner, the judge of probate shall give notice of said facts and of the date of receiving appeals by publication in at least 2 insertions in some newspaper published and of general circulation in the county, if there be one, the first publication to be at least 10 days before the date set for receiving appeals and said notice shall also be posted at least 10 days before the date for receiving appeals in 5 or more conspicuous places in each city, village and township, where any part of the district may be located and within the limits of such district

Review of apportionment; notice of appeal, board of review, appointment, meeting.

The state highway commissioner or any city, township or village which may feel aggreeved by the apportionment of benefits so made by the drain commissioner may make an application to said probate court for review of the apportionment by a board of review by filing with said probate court a notice of appeal. Only 1 board of review shall be appointed by said court. Upon receipt of any such notices of appeal, as hereinbefore provided, the probate court shall forthwith notify the drain commissioner, in writing, of such appeal and thereupon make an order appointing 3 disinterested freeholders of such county not residents of said district, to constitute such board of review. The court shall thereupon, with the concurrence of the drain commissioner, immediately fix the time and place when and where said board of review shall meet to review said apportionments, which said time shall be not less than 10 nor more than 15 days from the date of filing such appeal.

Same: notice of meeting, service, return.

The drain commissioner shall thereupon give notice to the persons so appointed of the grantment and of the time and place of meeting and shall give notice of such meeting and shall give notice of such meeting and shall serve a like notice upon the state highway commissioner shall be made and townships. Such service shall be made by the person serving said the field of probate. At such hearing the board will be their duty to review all apportionments made and heard of review shall be sworn by

Same; certiorari; roll of apportionments; payment by municipalities.

The board of review shall proceed at the time and place specified in the notice to hear the proofs and allegations of all parties in respect to the matter of appeal. A review of apportionments shall be made by the board of review and if, in their judgment, there shall be manifest error or inequality in such apportionments, they shall order and make such changes therein as they shall deem just and equitable. Determination of the drain commissioner, if not appealed from, or of said board, in case of an appeal, shall be final and there shall be no right of appeal from such determination, except by writ of certiorari to the proper court. The determination shall be reduced to writing and signed by the drain commissioner, or in case of appeal a majority of the board making the same, and shall be delivered to the judge of probate together with all other papers relating thereto. Upon the apportionments becoming final, as hereinbefore set forth, the judge of probate shall deliver said approved roll of apportionments of benefits and expense to the drain commissioner, who shall assess the amounts therein set forth to the respective cities, villages and townships involved, and said cities, villages and townships shall thereafter make payment thereof as collected in quarterly installments to the county treasurer to be deposited in a separate fund for the rehabilitation, ordinary maintenance and operation of said facilities, which said fund shall be paid out only on the order of the drain commissioner of the county in which said facilities are located.

Same: payment for services; costs; annual assessments; reapportionment.

Payment for services and providing for substitute membership necessary on the board of review shall be in accordance with sections 158 and 159 of this act. Such necessary costs of the proceeding shall be determined by the judge of probate, said cost to be paid from the revolving fund of the county and same to be returned to the county out of the first assessment against said district. Immediately upon receipt of sufficient funds so to do, the drain commissioner of the county shall proceed with the rehabilitation, ordinary maintenance and operation of said facilities, and shall continue the same as long as funds are available. The costs and charges hereinbefore set forth shall be an annual charge and shall be assessed against the state highways and the several cities, villages and townships by said drain commissioner each year as long as said facility continues to be operated, unless in the opinion of the drain commissioner, the state highway commissioner or of any of said cities, villages or townships, said apportionment should be changed, in which event either said drain commissioner, the state highway commissioner, or any of said cities, villages or townships may petition the judge of probate of the county in which said proceedings were had for the appointment of a board of review to reapportion said expense, and on filing said petition said judge of probate shall proceed to appoint a board of review on notice and in the manner hereinbefore set forth, which said board of review shall review such assessments and make a new apportionment: Provided, however, That no reapportionment shall be made oftener than once in each calendar year.

Municipal assessments added to water rates.

The several cities, villages and townships against whom an assessment is made, as hereinbefore provided shall collect for such expense so assessed to them under this act by charges for the use of said facilities, to be added to and collected with the water rates of said cities, villages and townships, in the same manner as other water rates of said cities, villages and townships are collected, or in such other manner as the several governing bodies of said respective cities, villages and townships may determine.

280.425 Additional drains at expense of petitioner; construction, consent, supervision; open drain, tiling. [M.S.A. 11.1425]

Sec. 425. Any land owner in the drainage district whose land requires additional drainage may petition the commissioner for permission to construct a drain, by the use of drainage conduits, to any regularly established drain, and said permission shall be granted by the commissioner when, in his opinion, the nature of the ground to be crossed will admit thereof and the surface of the land can be restored and for such purpose said drain may traverse the lands of other freeholders in the district: Provided, That before such permission be

granted by said commissioner the consent in writing of the owner or owners of the lands to be traversed by said proposed drain be obtained, or in case permission is refused by the owner or owners of the lands to be traversed by said proposed drain, such drain may be established by following the provisions of this act governing the location, establishment and construction of county or inter-county drainage districts and drains therein, as the case may be: Provided further, That the entire expense thereof shall be borne by such petitioner, and that the construction of such drain shall be done at such time and in such manner as the commissioner shall prescribe. When drains are constructed, the entrance thereto shall be substantially protected from driftwood and debris. Any application to lay out and designate a drainage district or petition to locate, establish and construct a drain under the foregoing provisions of this section shall only require the signature or signatures of the petitioning land owner or owners, other provisions of this act notwithstanding. In case permission is granted to tile the source of a drain, the commissioner shall further prescribe the amount and part of the drain to be tiled and the manner of tiling. Any person through whose land an open drain has been established and constructed may make a written request to the county drain commissioner to be permitted, at his own expense, to tile and cover with earth the whole or any part thereof that may traverse his land, and the commissioner may grant such request, but in doing so he shall prescribe the size of the tile to be used: Provided, That no permit shall be issued to tile or crock any established drain that will lessen the area of the drain as established.

HISTORY Am. 1957, p. 137, Act 119, Imd. Eff. May 24.

280.426 Drain orders received for drain taxes. [M.S.A. 11.1426]

Sec. 426. The drain orders issued for each particular drain shall be received for drain taxes for benefits levied for the construction of such drain by the township treasurer or county treasurer, as the case may be.

280.427 Corporation or land contract vendee as freeholder; corporate agent or officer as signer of petition. [M.S.A. 11.1427]

Sec. 427. In any application or petition required to be filed under this act, a free-holder shall be deemed to include a corporation owning land and a vendee under land contract, where such contract is of record in the office of the register of deeds of the county, or where the land is assessed in the name of the vendee on the tax assessment roll of the township or city. The authority of an officer or agent of a corporation to sign an application or petition on behalf of such corporation shall not be questioned, except by such corporation itself, after the application or petition has been accepted and passed on by a board of determination.

280.428 Drainage district including state lands; assessment, payment. [M.S.A. 11.1428]

Sec. 428. If any drain commissioner shall receive an application to lay out a drainage district which will include land owned by the state of Michigan, or owned or controlled by any state institution, board or agency, said commissioner shall serve notice of apportionment of benefit on the same officers in like manner as service is required to be made on the state highway commissioner for state highways, and if said director of agriculture and the officer, board or agency having control of such land shall approve, in writing, the amount of such assessment, and shall state whether such assessment shall be paid in full or by installments, the board of state auditors is directed to audit and allow and draw its warrant upon the state treasurer in payment of the amount assessed against said land either in full or by installments as requested. Such sums of moneys as are necessary to carry out the provisions of this section are hereby apportioned from the general fund of the state out of any moneys in said fund not otherwise appropriated.

280.429 Flood control projects; easements to United States; approval. [M.S.A. 11.1429]

Sec. 429. Subject to the consent and approval of the several boards of supervisors of this state and the boards of supervisors of the counties comprising intercounty drainage districts, the several county drain commissioners and the drainage boards of intercounty drainage districts are hereby authorized to grant unto the United States of America the right to use all the easements and rights of way conveyed to their respective drainage districts or to any county or counties lying wholly or in part in such districts, for the construction and maintenance of any county or intercounty drain by the United States in connection with any flood control project undertaken by the United States acting through its war department or any other federal department or agency. In such cases in which the work is to be performed at the expense of the United States, it shall not be necessary for the drain commissioner or drainage board to advertise for bids or to let contracts for the construction or maintenance of any such flood control project.

280.430 Sanitary sewage; contracts for use of drains, charges. [M.S.A. 11.1430]

Sec. 430. (1) Whenever any county or intercounty drain is used for the transportation of sanitary sewage, the county or counties within whose boundaries the drainage district lies may contract under the provisions of Act No. 129 of the Public Acts of 1943, as amended being sections 123.231 to 123.235 of the Compiled Laws of 1948, or any other applicable act, for the disposal of sewage therefrom, including any storm water necessarily mixed therewith. In such case the drain commissioner or the drainage board may fix and collect charges to cover the cost of the treatment and disposal of sanitary sewage. Such charges shall be approved by the majority vote of the members-elect of the board of supervisors. The charges may be made to each user of the services or may be made to public corporations. Contracts for periods not exceeding 50 years may be made between the county and public corporations to be so served, in respect to sewage disposal services, when approved by the governing bodies of the several parties thereto.

Lien for charges, collection, discontinuance of service.

(2) Charges for sewage disposal services furnished to any premises shall be a lien thereon from the date such charges are due and any charges delinquent for 6 months or more shall be certified annually to the proper tax assessing officer or agency who shall enter the same upon the next tax roll against the premises to which such services shall have been rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement of the lien therefor. The time and manner of certification and the other details in respect to the collection of such charges and the enforcement of such lien shall be prescribed by the governing body of the public corporation in which the lands are located. The payment of charges for sewage disposal services to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both.

Costs includable in charges.

(3) The charges for sewage disposal services may also include the cost of the operation and maintenance of any physical structures and any administrative expenses in connection with the transportation, treatment and disposal of sanitary sewage.

Add. 1959, p. 58, Act 57, Imd. Eff. June 4

280.431 Contracts for drain projects; federal government; public corporations; relief from assessments. [M.S.A. 11.1431]

Sec. 431. The drain commissioner or drainage board may contract or make agreements with the federal government, including any agency thereof, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract or agreement may include any specific terms required by act of congress or federal regulation, not in conflict with state law, as a condition for participation on the part of the federal government.

The drain commissioner or drainage board may contract or make agreements with any private corporation or with any public corporation, including any agency thereof, in respect to any matter connected with the construction, operation or maintenance of any flood control or drainage project or combination thereof. The contract or agreement may provide that any payments made or work done by the public corporation shall relieve it in whole or in part from assessment for the cost of the project. No construction work shall be undertaken by the drain commissioner or drainage board until bids have been advertised for and received for the performance of such work, but this provision shall not apply to work to be performed solely by the federal government or a public corporation at its expense.

Flood control projects; conservation and utilization of soil and water.

The drain commissioner or drainage board may contract or make agreements with private and public corporations and with the federal government including any agency thereof for the purpose of expanding any flood control or drainage project or combination thereof to include the conservation and utilization of soil and water for recreation and other beneficial purposes. The contracts or agreements shall provide for an equitable sharing of the costs of the expanded flood control or drainage project or combination thereof and the cost borne by a drainage district shall not be in excess of the amount which can be attributed solely to drainage and flood control. The drain commissioner or drainage board, may acquire by gift or purchase the necessary lands, and rights of way for the purposes of any expanded flood control or drainage project or combination thereof. The drain commissioner or drainage board may acquire by condemnation proceedings similar to those provided in chapter 4 and chapter 6 of this act, the necessary lands and rights of way for any expanded flood control or drainage project or combination thereof which shall be undertaken jointly with a public corporation or the federal government. The drain commissioner or drainage board may pay for the costs of lands taken by condemnation for an expanded flood control or drainage project or combination thereof, undertaken jointly with a public corporation or the federal government, but the public corporation or federal government shall promptly reimburse the drainage district for all costs of acquisition in excess of those costs directly attributable to drainage and flood control.

Public corporation; definition.

The term "public corporation" includes the state, counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.

HISTORY: Add. 1959, p. 214, Act 153, Imd. Eff. July 16;—Am. 1962, p. 97, Act 108, Eff. Mar. 28, 1963.

280.432 Obstruction of drain commissioner, drainage board, or agents, misdemeanor. [M.S.A. 11.1432]

Sec. 432. Whoever, after the drain commissioner has given notice by first class mail, that the drain commissioner, drainage board or their agents will go upon lands for any purpose hereinafter set forth, to the owner of the land whose name appears on the last city or township tax assessment roll, at the address shown on the roll, and if no address appears thereon no notice need be mailed to such person, wilfully prohibits, prevents or obstructs the drain commissioner, drainage board or their agents from going upon lands either within or outside of the district for the purpose of examining the same or making surveys in connection with the work of the drain commissioner or drainage board, or wilfully prohibits, prevents or obstructs the drain commissioner or drainage board of a district, their agents, employees or contractors from going upon the right of way of the district with their servants, tools, machinery, instruments and other equipment for the purpose of constructing, reconstructing, repairing or maintaining the work of the drain commissioner or drainage board is guilty of a misdemeanor.

HISTORY: Add. 1962, p. 421, Act 191, Eff. Mar. 28, 1963.

CHAPTER 19.

CONSOLIDATED DISTRICTS

280.441 County drainage districts; consolidation; petition, proceedings, signers; board of determination, residence, meeting, compensation. [M.S.A. 11.1441]

Sec. 441. Any 2 or more drainage districts, in whole or in part, or any combination thereof, located in the same county and in the same drainage basin or in adjoining basins, may be consolidated and organized as a single drainage district upon the filing of a petition therefor with the drain commissioner of the county setting forth the reason for the proposed consolidation. The consolidation may include lands not within any existing drainage district if the petition so requests. The petition shall be signed by at least 50 freeholders within the proposed consolidated drainage district. If in the proposed consolidated drainage district there are less than 100 freeholders, then the petition shall be signed by at least 50% of the freeholders in the proposed consolidated drainage district. In lieu of a petition signed by freeholders, a petition may be signed solely by a city or township any portion of which is located within the proposed consolidated drainage district, when duly authorized by its governing body, or by any combination of municipalities. As soon as practicable after the filing of a petition, the drain commissioner, if not disqualified under section 381 of this act, may appoint a board of determination composed of 3 disinterested freeholders to determine the necessity of the consolidation. If the commissioner is disqualified or chooses not to appoint the board of determination, he shall forthwith file a copy of the petition with the chairman of the board of supervisors, together with a statement signed by him showing that he is disqualified or chooses not to act in appointing a board of determination. Upon receiving a copy of the petition and certificate, the chairman of the board of supervisors, if not privately interested, shall appoint as soon as practicable a board of determination and shall immediately notify the drain commissioner of the names and addresses of those appointed. If the chairman of the board of supervisors has a private interest in the proceedings, the drain committee of the board of supervisors shall appoint the board of determination. All members of a board of determination shall be residents of the county but not of the proposed consolidated drainage district or of any drainage district a part of which is to be included in the proposed consolidation. A meeting thereof shall be called within the proposed consolidated drainage district at some convenient place to be designated by the drain commissioner. If any person appointed to the board of determination fails or refuses to serve, then a successor shall be appointed by the official or committee making the appointment in the first instance. The compensation of each member of the board of determination shall be \$8.00 per day with no additional allowance for mileage; but the board of supervisors of any county may increase the per diem compensation of members of the board of determination.

Meeting; notice, service, first class mail, affidavit of mailing, expense.

The drain commissioner shall give notice of the time and place of the meeting by publication twice in a newspaper of general circulation in the county or a newspaper of general circulation in the proposed consolidated drainage district, the first publication of which shall be at least 10 days before the meeting. Notices shall also be served on the county clerk and the clerk of each township or city in the proposed consolidated drainage district, personally or by certified mail, at least 10 days before the meeting. The drain commissioner shall send notice by first class mail of the time and place of the meeting at least 10 days before the date thereof to each person whose name appears upon the last city or township tax assessment roll as owning land within the existing drainage districts, all or any portions of which are proposed to be consolidated, or owning lands within the proposed consolidated drainage district whose lands are not within an existing drainage district, at the address shown on such roll. If no address appears on the roll, then no notice need be mailed to such persons. The drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed constitute all of the persons to whom notice must be sent. The affidavit shall be conclusive proof that

notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding if notice has been sent by first-class mail as provided in this section. All expense of notification shall be paid by the drainage district when created

Determination as to conduciveness to public health, convenience or welfare, filing of funds.

At the time and place fixed in the notice the board shall meet, elect a chairman and a secretary and proceed to determine whether the proposed consolidation is conducive to public health, convenience or welfare. At the meeting all persons owning lands in the proposed consolidated drainage district, or in any portion of any established drainage district a part of which is to be included in such consolidation, or any municipality affected may appear for or against the proposed consolidation. After hearing the evidence, the board shall make its determination as to whether the proposed consolidation is conducive to public health, convenience or welfare. If the board finds by a majority vote of the whole number of members that the proposed consolidation is not conducive to public health, convenience or welfare, it shall file with the commissioner an order dismissing the petition and no further petition for the drain shall be entertained within 1 year after such determination. If the board by a majority vote finds that the proposed consolidation is conducive to the public health, convenience or welfare, it shall make its order to that effect and file the same with the commissioner. Upon receipt of the order of consolidation, the commissioner shall enter an order giving the consolidated drainage district a name or number

HISTORY: Am. 1959, p. 407, Act 261, Imd. Eff. Aug. 21; Am. 1963, p. 316, Act 215, Imd. Eff. May. Am. 1963, p. 373, Act 228, Eff. Sept. 6; Am. 1965, p. 271, Act 138, Eff. Mar. 31, 1966.

280.441a Intercounty drainage districts; consolidation; petition; drainage board. [M.S.A. 11.1441(1)]

Sec. 441a. Any 2 or more drainage districts, in whole or in part, or any combination thereof, may be consolidated and organized as a single drainage district under this section where the proposed consolidated district lies within more than 1 county, upon the filing of a petition in writing with the commissioner of any county having jurisdiction of any lands in the proposed consolidated drainage district, setting forth the reason for the proposed consolidation. The consolidation may include lands not within any existing drainage district if the petition shall so request. The petition shall be signed by at least 50 freeholders within the proposed consolidated drainage district. If in the proposed consolidated drainage district there are less than 100 freeholders, then the petition shall be signed by at least 50% of the freeholders in the proposed consolidated drainage district. In lieu of a petition signed by freeholders, a petition may be signed solely by a city or township any portion of which is located within the proposed consolidated drainage district, when duly authorized by its governing body, or by any combination of municipalities. Upon receipt of the petition, the commissioner shall notify the state director of agriculture and the commissioner of each county embracing any lands in the proposed consolidated drainage district. The drain commissioners of such counties and the director of agriculture or any deputy designated by him shall constitute the drainage board.

Meeting, notice, first class mail, affidavit of mailing, expense.

The state director of agriculture shall call a meeting of the drainage board not less than 15 days nor more than 60 days from the receipt of the notice. The meeting shall be held in the immediate locality of the proposed consolidated drainage district. Notices of the meeting shall be served on the clerk of each county, township and city within the proposed consolidated drainage district, personally or by certified mail, at least 10 days before the meeting. A notice of the meeting shall be published twice in each county affected in a newspaper of general circulation in the proposed consolidated drainage district, the first publication of which shall be at least 10 days before the meeting. The drain commissioner of each county in which lie lands proposed to be consolidated into the proposed consolidated district shall also send notice of the time and place of the meeting by first class mail, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment

roll as owning land within the existing drainage districts, all or any portions of which are proposed to be consolidated or owning lands within the proposed consolidated drainage district which are not within an existing drainage district, at the address shown on such roll, and if no address appears thereon, then no notice need be mailed to such persons. Each drain commissioner shall make an affidavit of the mailing and shall record therein that the persons to whom the notice was mailed constitute all of the persons to whom notice must be sent. The affidavits shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional deleval my disdating a drain proceeding, if notice has been sent by first-class mail as provided in this section. All expense of notification shall be paid by the drainage district when created or consolidated

Determination as to conduciveness to public health, convenience or welfare; filing of order.

I pain convening the meeting the state director of agriculture or any deputy selected by him shall act as chairman. The drainage board shall consider the application for the proposed consolidated drainage district and determine the sufficiency of the significant thereto. The drainage board shall their proceed to determine whether the proposed consolidation is conductive to public health convenience or welfare. At the meeting all persons owning lands in the proposed consolidated drainage district, or in any parton of any established drainage district a port of which is to be included in such consolidation. After hearing the evidence the drainage board shall make its determination as to whether the proposed consolidation is conductive to public health convenience or welfare. If the board finds to a majority vote of the whole number of members that the proposed consolidation is not conductive to public health, convenience or welfare it shall file with the chairman an order dismissing the petition, and no further petition for consolidation shall be entertained within I year after such determination. If the board by a majority vote finds that the proposed consolidation is conductive to the public health convenience or welfare, it shall make its order to that effect and file the same with the chairman. Upon receipt of the order of consolidation the chairman shall enter an order giving the consolidated drainage district a name or number. A copy of the order shall be filed within 10 days by the state director of agriculture in the office of the county drain commissioner of each county in which he lands included in the consolidated drainage district.

HISTORY - Add 1980 p. 409. Act 261, Bull Eff. Aug. 21; - Au. 1963, p. 415, Act 213, Bull Eff. May 45-

280.442 Same; surveys. [M.S.A. 11.1442]

Sec. 442. In any proceeding for the consolidation of 2 or more drainage districts, existing surveys shall be used unless the drain commissioner, in the case of a county drain, or the drainage board, in the case of an intercounty drain, shall make a determination that the existing surveys are inadequate.

280.443 Same; existing drain, recognition and credit, exemption from special assessment. [M.S.A. 11.1443]

Sec. 443. When in any consolidated district it shall be necessary to construct a new drain on or near the line or any part of the line of an existing, operating drain so as to make the old existing drain in whole or in part unnecessary, recognition and credit shall be given for such existing drain or part thereof as follows:

The assessing authorities shall make a determination of the value of benefits which, except for the construction of the new drain, could reasonably have been anticipated from

the continued operation of the existing drain or part thereof.

The property or municipal corporation which paid the assessment for the existing drain or part thereof shall be exempt from any special assessment to pay for the new drain to the extent of the value so determined.

The assessing authorities, in assessing for benefits and apportionment of costs and expenses for any new drain in a consolidated district which has been laid on or near the line or any part of the line of an existing, operating drain so as to make the existing drain in whole or in part unnecessary, shall give effect to this exemption.

280.444 Same; indebtedness, retirement; special assessment. [M.S.A. 11.1444]

Sec. 444. In case any drainage district which is included and merged in the consolidated district has any outstanding bonded or other indebtedness, any funds in the treasury of such debter district shall be used to retire such indebtedness. If said funds are in-difficient, the indebtedness shall be paid from any tunds derived from any special assessments theretofore levied or extended against the lands in the debter district, and if further funds are necessary the drain commissioner or drainage board of the consolidated district shall levy a special assessment against the lands in the debter district sufficient to pay such indebtedness. The proceeds of such special assessment shall be used only for the purpose of paying such indebtedness, bonded or otherwise, and the interest thereon.

280.445 Same; bonds and contracts, assumption by consolidated district. [M.S.A. 11.1445]

Sec. 443. The merging of any drainage district into a consolidated district shall not affect the obligation of any bonds issued or contracts entered into by such district nor invalidate the levy, extension or collection of any taxes or special assessments upon property in the debtor district, but such bonds and contracts shall be taken over and assumed by the consolidated district, and all outstanding special assessments shall be collected and paid over to the consolidated district for the payment of the obligations theretofore issued or contracts entered into by the debtor district.

280 446 Same; abandonment or vacation of included drain; proration of moneys. [M.S.A. 11.1446]

Sec. 446. Any drain which has been included and merged in a consolidated drain and whose outstanding indebtedness has been fully paid may be ahandoned and vacated in the manner provided for the abandonment or vacation of drains. In case any such drain has in its fund any money after all outstanding indebtedness has been paid such money shall be transferred paid over or prorated in the same manner as is provided for abandoned or vacated drains. Provided That if any person, firm, corporation or township entitled to share in the distribution of such money shall be liable for any special assessment of the consolidated drain, its share of such money, or any part thereof which is necessary to cover such special assessment, shall be returned to the respective county treasurer or treasurers and such treasurer or treasurers shall transfer such money to the fund of the consolidated drain and such person, firm, corporation or township shall be credited therefor against the special assessment of the consolidated drain.

280.447 Same; rights and powers, validation of bonds. [M.S.A. 11.1447]

Sec. 447. After any drainage districts have consolidated as provided for in this chapter, the consolidated district shall, except as otherwise provided in this chapter, have all the rights and powers and be subject to all laws applicable to county or intercounty drainage districts, as the case may be. The provisions of sections 441 through 447 of this act shall not be construed to validate and shall not validate any bonds or other obligations issued prior to May 5, 1954, nor shall said sections be construed to revive or validate any obligations of an old existing or established drain which has heretofore been determined in a court of competent jurisdiction to be invalid.

280.448 Same; consent of county auditors or comptroller. [M.S.A. 11.1448]

Sec. 448. In any proceeding to consolidate drainage districts pursuant to the provisions of this chapter, no special assessment district shall be established and no bonded or other indebtedness shall be incurred and no construction or other contracts shall be let in counties having a board of county auditors or a county comptroller without the written consent of the said board of county auditors or the said county comptroller: Provided, however, That the approval of said board of county auditors or said county comptroller shall not be required in proceedings relative to the establishment of an intercounty consolidated drainage district.

CHAPTER 20.

INTRACOUNTY DRAINS: PUBLIC CORPORATIONS

280.461 Definitions. [M.S.A. 11.1461]

Sec 461. Whenever used in this chapter, except when otherwise indicated by the context:

a) The term "state" shall be deemed to mean the state of Michigan.

(b) The term "public corporation" shall be deemed to include the state of Michigan, counties cities villages townships metropolitan districts and authorities created by or pursuant to state statutes.

(c) The term "agencies" shall be deemed to include those officers, boards, commissions and other bodies created by public corporation or by the federal government,

which are authorized to act in their own names.

(d) The term "county drain" shall be deemed to mean any drain as defined in this act, irrespective of size, carrying drainage water and or sewage originating in 1 county. The finding of the drainage board that all drain water and sewage does originate in 1 county shall be final. In making such determination, the drainage board may disregard any drainage from another county which it deems to be inconsequential.

280.462 County drains: public health, assessment against public corporations. [M.S.A. 11.1462]

Sec. 462. County drains which are necessary for the public health may be located, established and constructed under the provisions of this chapter where the cost thereof is to be assessed wholly against public corporations.

280.463 Same: petition, filing, signatures, contents, certified copy of resolution.
[M.S.A. 11.1463]

Sec. 463. Whenever it shall be necessary for the public health to locate, establish and construct a county drain, then a petition therefor may be filed with the county drain commissioner signed by 2 or more public corporations which will be subject to assessments to pay the cost thereof. Such petition shall state that it is filed pursuant to the provisions of this chapter and shall describe the location and route of such proposed drain sufficiently to determine with reasonable certainty the areas to be drained thereby. Attached to said petition shall be a certified copy of the resolution of the governing body of each signer authorizing the affixing of its signature thereto. Such petition may be filed in more than 1 counterpart.

280.464 Drainage board; members; disqualification, alternate members, chairman; compensation and mileage; minutes of proceedings, records and files.

[M.S.A. 11.1464] Sec. 464. There is hereby created for each project petitioned for under the provisions of this chapter, a drainage board to consist of the drain commissioner of the county, the chairman of the county board of supervisors and the chairman of the board of county auditors. If there is no board of county auditors in any such county, then the chairman of the finance committee of the board of supervisors shall act as a member of the drainage board, and if there is neither a board of county auditors nor finance committee, then the chairman of the board of supervisors shall select from time to time 1 member of the board of supervisors of his county to act as a member of the drainage board. If a supervisor member of the drainage board, as provided in this section herein or section 487, is interested in a project petitioned for under the provisions of this chapter, by reason of his holding an elected or appointed office in a public corporation to be assessed for the cost of the project, he is disqualified to act as a member of the drainage board with respect to such project. In such case the vice chairman or chairman pro tempore of the board of supervisors or of the finance committee of the board of supervisors, if not also disqualified, shall act as such member. If the vice chairman or chairman pro tempore is disqualified, the drain commissioner of the county shall designate a member of the board of supervisors who is not so disqualified to act as a member of the drainage board for the project. The chairman of the board of supervisors and any member of a board of supervisors serving on the drainage board shall receive the same compensation and mileage as provided for the chairman and a member of the board of supervisors. The county drain commissioner shall be chairman of the drainage board. He shall keep minutes of the proceedings of the drainage board and all records and files of the board shall be kept in his office.

HISTORY Am. 1965, p. 310, Act 194, Imd. Eff. July 15.

280.465 Same; meetings, notice, waiver, quorum, adjournment; orders. [M.S.A. 11.1465]

Sec. 465. Meetings of the drainage board may be called by the chairman or any 2 members thereof, upon notice sent by registered mail to each member, setting forth the time and place thereof, which notice shall be siled not less than 5 days previous to the time of the meeting. The affidavit of the case of an as to such mailing shall be conclusive proof thereof. No notice of any meeting shall be required if all members are present. Any member of said board may waive notice of any meeting, either before or after such meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by said board except by a majority vote of its members. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of such hearing. All orders issued by the drainage board shall be signed by the chairman.

280.466 Same; first meeting, notice. [M.S.A. 11.1466]

Sec. 466. Upon receipt of a petition as hereinbefore provided, the county drain commissioner shall call the first meeting of the drainage board. In the event there be no board of county auditors or finance committee in the county, then notice to the chairman of the board of supervisors of such county shall be deemed to be notice to the member of the board of supervisors to be selected by him.

280.467 Same; tentative determination; name; district assessed; hearing of objections, notice, form; final order of determination. [M.S.A. 11.1467]

Sec. 467. The said drainage board at its first meeting shall consider the petition for the project and make a tentative determination as to the sufficiency thereof and the practicability of the proposed drain, and shall also make a tentative determination of the public corporations to be assessed. Said drainage board shall give a name to the drain and to the drainage district. The district shall be composed of the public corporations to be assessed for the cost of the project. After the drainage board has made the determination specified in the first sentence of this section, then it shall fix a time and place when and where it will meet to hear any objections to the proposed drain and the petition therefor, and to the matter of assessing the cost of such drain to the designated public corporations. Notice of such hearing shall be published twice in the county by inserting the same in at least I newspaper published therein, designated by the drainage board, with the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and any notice to a county shall be sent to both the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the chairman and proof of the publication and mailing thereof shall be filed in his office. The drainage board may provide a form to be substantially followed in the giving of such notice. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the drainage board shall make a determination as to the sufficiency of the petition, the practicability of the drain, whether the drain should be constructed, and if so, the public corporations to be assessed, and shall issue its order accordingly, which order shall be known as the "final order of determination". No public corporation may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice, as above provided.

280.468 Same; public corporation drains; plans, specifications, estimates, approval of route, designation of area served; apportionments. [M.S.A. 11.1468]

The drainage board shall secure from a competent engineer, plans, speci-Sec. 468. fications and an estimate of cost of the proposed drain, which, when approved and adopted by the board, shall be filed with the chairman thereof. In approving the plans and specifications, the drainage board shall not be limited to the route of the drain described in the petition or the final order of determination. The drainage board shall tentatively establish the percentage of the cost of such drain or of the several sections or parts thereof which is to be borne by each public corporation. In making the apportionments hereunder, there shall be taken into consideration the benefits to accrue to each public corporation and also the extent to which each public corporation contributes to the conditions which make the drain necessary. Apportionments against the state shall be based upon such benefits and contributions as related solely to the drainage of state highways, and those against the county shall be based as related solely to the drainage of its county highways. Before any tentative apportionment shall be made, the drainage board shall designate the area to be served by the drain project, which may or may not include all of the area in any public corporation to be assessed and may divide the drain into sections or parts for purposes of apportionment or construction. Nothing herein contained shall prohibit the county from assuming any additional cost of the drain if 2/3 of the members elect of the board of supervisors vote in favor thereof. The apportionment shall only apply to the proposed drain. The apportionments for any extensions or other work subsequently performed under section 482 shall be re-established by the board.

HISTORY: Am. 1957, p. 43, Act 37, Imd. Eff. May 14;—Am. 1961, p. 46, Act 45, Imd. Eff. May 20:—Am. 1963, p. 319, Act 215, Imd. Eff. May 17.

280.469 Same; hearing of objections, notice, contents; confirmation or readjustment of apportionments; final order of apportionment. [M.S.A. 11.1469]

Sec. 469. After the foregoing tentative apportionments of cost have been made, then the drainage board shall set a time and place when and where it will meet and hear any objections to such apportionments. Notice of such hearing shall be published twice in the county by inserting the same in at least 1 newspaper published therein, designated by the drainage board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and any notice to the county shall be sent both to the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the chairman and proof of the publication and mailing thereof shall be filed in his office. The drainage board may provide a form to be substantially followed in the giving of such notice. The notice shall include tentative apportionments to the several public corporations. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the drainage board may confirm the apportionments as tentatively made, or if in any respect it shall deem such apportionments to be inequitable, it shall readjust the same: Provided. That if such readjustment shall involve the increasing of any assessment and such increase shall not be consented to by resolution of the governing body of the public corporation whose assessment was increased, then before any readjusted apportionments shall be confirmed the drainage board shall set a time and place for a rehearing and shall give notice thereof as in the first instance, which notice shall also set forth the apportionments as readjusted. After confirmation, the drainage board shall issue its order setting forth the several apportionments as confirmed, which order shall be known as the "final order of apportionment".

280.470 Same; lands and rights of way; condemnation; procedure, federal government participation; costs. [M.S.A. 11.1470]

Sec. 470. The drainage board shall then proceed to secure the necessary lands or rights of way for the proposed drain. If the same cannot be secured by negotiation.

then the drainage board may proceed under the provisions of Act No. 149 of the Public Acts of 1011, as amended, being sections 213,21 to 213,41 of the Compiled Laws of 1948, or under the applicable provisions of sections 75 to 84 of this act, and shall be deemed to be a "state agency" as that term is used in said act, or if the project is one in which the federal government is participating in any manner, then such lands or rights of way may be acquired through proceedings brought by the federal government under any appropriate federal act. In the event lands or rights of way shall be acquired through proceedings under a federal act, then the amount of the awards in such proceeding shall be deemed to be a part of the cost of the drain to the same extent as if the condemnation proceedings had been taken under the laws of this state.

HISTORY: Am. 1961, p. 220, Act 154, Imd. Eff. June 1.

280.471 Same; contracts with federal government or corporations; bids. [M.S.A. 11.1471]

Sec. 471. The drainage board may contract with the federal government, which term as used in this section shall include any agency thereof, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The drainage board may also contract with any private corporation or with any public corporation, which term as used in this section shall include any agency thereof, in respect to any matter connected with the construction, operation, maintenance, use or services of any drain. Such a contract may provide for service or transportation charges and that any payments made or work done by such corporation shall relieve it in whole or in part from assessment for the cost of the drain or of its maintenance and operation. No construction work shall be undertaken until the drainage board has advertised for and received bids for the performance of such work, except for construction work to be performed by the federal government or a public corporation.

HISTORY: Am. 1963, p. 319, Act 215, Imd. Eff. May 17.

280.472 County treasurer, deputies; bonds; expenditures. [M.S.A. 11.1472]

Sec. 472. The county treasurer shall be the custodian of the funds of the drainage district. He may designate 1 or more of his deputies who may act for him in the performance of any of his duties under this section. The drainage board may require the county treasurer and any deputy county treasurer so designated to furnish a bond payable to the drainage district, in addition to any bond payable to the county, conditioned upon the faithful discharge of his duties in respect to moneys belonging to the drainage district, the premium thereon to be paid by the drainage district. Moneys held by said treasurer shall be paid out only upon order of the drainage board, except that no such order shall be required for the payment of principal and interest on bonds.

HISTORY: Am. 1961, p. 47, Act 46, Imd. Eff. May 20.

280.473 Special assessment roll; installments, payment, interest. [M.S.A. 11.1473]

After the confirmation of the apportionments by the drainage board, the Sec. 473 chairman of the board shall prepare a special assessment roll assessing the estimated cost of the drain, or if the actual cost has been ascertained, then the actual cost, against the several public corporations in accordance with the confirmed apportionments. The drainage board may provide for the payment of the special assessments in any number of annual installments, not exceeding 30, but no installment shall be less than 40% of any subsequent installment. The drainage board shall fix the amount of interest, not exceeding 6%, to be paid upon unpaid installments, which interest shall become due annually on the day and month upon which the annual installments become due. The drainage board may provide for the payment of any installments in advance of their respective due dates and may prescribe the terms and conditions thereof. The drainage board shall fix the time in each year on which the first installment and each of the subsequent installments of special assessments become due and payable so that each public corporation can make a tax levy for the payment thereof. HISTORY: Am. 1957, p. 43, Act 37, Imd. Eff. May 14; -Am. 1963, p. 319, Act 215, Imd. Eff. May 17.

280.474 Same; contents, approval; certification to public corporation assessed; annual notice; advancements. [M.S.A. 11.1474]

Sec. 474. The special assessment roll shall contain the name of each public corporation assessed, the total estimated cost of the project, or actual cost if the same has been ascertained at the time of the preparation of the roll, the percentage apportioned to each public corporation, the amount of the assessment against each public corporation based upon the percentage of apportionment, and the amount of each installment if the assessment is divided into annual installments. After the special assessment roll has been prepared it shall be presented to the drainage board for approval. When the roll has been approved, then a statement to that effect, signed by the chairman of the drainage board, shall be affixed to the roll setting forth the date of approval. The chairman of the drainage board shall then certify to each public corporation assessed the amount of the total assessment against it, the amount of the various installments if the assessment is divided into installments, the due date of each installment and the rate of interest upon installments from time to time unpaid. The chairman each year, at least 30 days prior to the time of the levying of taxes by each public corporation, shall notify it of the amount of the installment and interest next becoming due, but the failure to notify any public corporation shall not excuse it from making payment of the installment and interest. On or before the due date of any installment, each public corporation shall pay to the county treasurer the full amount thereof, together with interest accruing to the due date. If any public corporation fails or neglects to account to the county treasurer for the amount of any installment and interest, then the county treasurer shall advance the amount thereof from county funds in the following cases:

- (1) If any bonds or other evidence of indebtedness have been issued to finance a project, the petition for which was filed after June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter and the board of supervisors has previously acted, by a resolution adopted by a 2/3 vote of its members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on the bonds or evidences of indebtedness, or
- (2) If any bonds or other evidence of indebtedness have been issued to finance a project, the petition for which was filed prior to June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter.

Deductions for advancements; assessments against state; spread of tax; corrections.

The county treasurer shall deduct the total amount so advanced from any moneys, other than those pledged for the payment of debts and those returned to the public corporation pursuant to article 10, section 23 of the state constitution, then or thereafter payable by him to the public corporation. The board of supervisors of any county which has advanced any money for a public corporation and which has not been reimbursed therefor, may order the public corporation and its officers to levy upon its next tax roll an amount sufficient to make the reimbursement on or before the date when its taxes become delinquent; and the public corporation and its tax levying and collecting officials shall levy and collect such taxes and reimburse the county. The foregoing shall not prevent the county from obtaining reimbursement by any other legal method. Assessments against the state shall be certified to the state highway commissioner and paid from state highway funds. The tax levying officials of each of the other public corporations assessed shall levy sufficient taxes to pay assessment installments and interest as the same become due unless there has been set aside moneys sufficient therefor. Any city may elect to spread the tax levy upon the county tax roll instead of the city tax roll. If a special assessment roll is prepared upon the basis of the estimated cost of the project, then after the actual cost has been ascertained and determined by the drainage board, the special assessments and the installments thereof shall be corrected by adding any deficiency or deducting any excess. The drainage board may order the corrections to be made upon the original roll or may order that a new corrected roll or a supplemental roll be prepared and submitted for approval by the drainage board.

HISTORY Am. 1961, p. 357, Act 212, Imd. Eff. June 6; Am. 1963, p. 320, Act 215, Imd. Eff. May 17.

GRAND RIVER BASIN COORDINATING COMMITTEE DETROIT MI F/G 8/6
GRAND RIVER BASIN MICHIGAN. COMPREHENSIVE WATER RESOURCES STUDY--ETC(U)
MAY 70 AD-A044 536 UNCLASSIFIED 5 OF 8 ¥ 280.475 Assessments and taxes not subject to statutory or charter debt and tax limitations. [M.S.A. 11.1475]

Sec. 475. Assessments made under the terms of this chapter shall not constitute an indebtedness of a public corporation within any statutory or charter debt limitation, and taxes levied by a public corporation for the payment of such assessments shall not be deemed to be within any statutory or charter tax limitation. Nothing contained in this chapter shall be construed as requiring any county, township, metropolitan district or authority to levy a tax beyond its constitutional tax limitation or any lawful increase thereof.

HISTORY: Am. 1959, p. 87, Act 77, Imd. Eff. June 29.

280.476 Bonds, issuance, maturity, signatures; collection of assessments. [M.S.A. 11.1476]

Sec. 476. The drainage board may issue 1 or more series of bonds for and on behalf of the drainage district, in anticipation of the collection of any or all installments of assessments or any part thereof, and pledge the full faith and credit of the drainage district for the prompt payment of the principal thereof and the interest thereon. The bonds shall mature serially with the last maturity not later than 2½ years after the due date of the last installment of the assessments and there may be more than 1 principal maturity date during any 12-month period. The bonds shall be signed by the chairman and at least 1 other member of the drainage board and the facsimile signature of the chairman shall be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the county treasurer and used for no other purpose than the payment of principal and interest on such bonds until the full payment thereof.

HISTORY: Am. 1963, p. 321, Act 215, Imd. Eff. May 17.

280.477 Additional assessment, apportionment. [M.S.A. 11.1477]

Sec. 477. If, for any reason, the original assessments shall not be sufficient to pay the principal and interest on bonds issued in anticipation of the collection thereof, then the drainage board shall make such additional assessments therefor as may be necessary, apportioned as in the first instance, it being the intention hereof that the collections on assessments shall, under all circumstances, be sufficient to pay said principal and interest.

280.478 Drainage board, continuation, responsibility, expenses. [M.S.A. 11.1478]

Sec. 478. The drainage board for each project shall continue in existence with such changes in personnel as shall result from changes in the officers constituting the board membership. It shall be responsible for the operation and maintenance of the drain. Any necessary expenses incurred in administration and in the operation and maintenance of the drain and not covered by contract shall be paid by the several public corporations assessed for the cost of the drain. The assessments shall be in the same proportion as the cost of the drain was assessed unless the drainage board establishes a different proportion for the assessments after notice and hearing as provided in section 469 of this act.

HISTORY: Am. 1963, p. 321, Act 215, Imd. Eff. May 17

280.479 Advancements by corporations, reimbursement. [M.S.A. 11.1479]

Sec. 479. Any public or private corporation, firm or individual may advance moneys for the payment of any part of the cost of a project hereunder, in which event it shall be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available therefor. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, but the contract or note shall not be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: Am. 1963, p. 321, Act 215, Imd. Eff. May 17.

280.480 Costs, items. [M.S.A. 11.1480]

Sec. 480. The cost of any drain project shall include (1) the cost of constructing or acquiring the facilities, structures, devices and equipment required to locate, establish and construct the drain or to improve or supplement the same, including bridges and culverts and any lands or rights of way necessary thereto; (2) the administrative and other expenses of the drainage board including the cost of service and publication of all notices; (3) all engineering, legal and other professional fees; (4) interest on bonds for the first year, if bonds are to be issued, and interest on moneys advanced pursuant to section 479; and (5) an amount not exceeding 10% of the gross sum to cover contingent expenses.

HISTORY: Am. 1963, p. 321, Act 215, Imd. Eff. May 17.

280.481 Assessments against townships and villages. [M.S.A. 11.1481]

Sec. 481. Unless otherwise provided by the drainage board, assessments against a township shall be against the township as a whole, including any incorporated village, but the drainage board may determine to assess a village separately, in which case the assessment against the township shall be exclusive of the village and the tax levies to be made by the township to pay such assessment shall not include any property taxable in the village.

280.482 Cleaning out and other improvements for public health; procedure; backfilling. [M.S.A. 11.1482]

Sec. 482. Any county drain or any portion thereof, now or hereafter existing, may be cleaned out, relocated, widened, deepened, straightened, extended, tiled or otherwise improved, or branches added or connected thereto, when necessary for the public health, in the same manner as a county drain may be located, established and constructed under this chapter, with such variations in the proceedings as may be necessary to make the same applicable, and also the cost thereof may be financed in like manner. A project to improve a county drain may include backfilling and leveling any portion thereof no longer needed after the improvements.

HISTORY: Am. 1961, p. 47, Act 46, Imd. Eff. May 20; Am. 1963, p. 321, Act 215, Imd. Eff. May 17

280.483 Certiorari; time; legal establishment of drain. [M.S.A. 11.1483]

Sec. 483. Neither the final order of determination nor the final order of apportionment shall be subject to attack in any court, except by proceedings in certiorari brought within 20 days after the filing of such order in the office of the chairman of the board issuing the same. If no such proceeding shall be brought within the time above prescribed, the drain shall be deemed to have been legally established and the legality of the drain and the assessments therefor shall not thereafter be questioned in any suit at law or in equity, either on jurisdictional or nonjurisdictional grounds.

280.484 Procedures; incorporation of other chapters in drainage board orders. [M.S.A. 11.1484]

Sec. 484. In operating under the terms of this chapter, the several boards and officials shall not be limited by the provisions contained in other chapters of this act and the procedures required under the terms of such other chapter shall not be deemed to be applicable: Provided. That when not contrary to the express provisions of this chapter, any provision or provisions in other chapters of this act may be incorporated by recital or by references into any order or resolution of the drainage board, and when so incorporated shall be deemed applicable to the project under this chapter.

280.485 Relief drains. [M.S.A. 11.1485]

Sec. 485. When 2 or more public corporations, constituting as a whole contiguous territory, are served by 1 or more county drains, and it shall become necessary for the public health to supplement such existing drain or drains by constructing 1 or more relief drains, which may consist of new drains and branches and connections thereto or extensions.

enlargements, branches, connections or improvements described in section 482 to existing drains or any combination thereof, then the entire project may be constructed and financed as a whole under the provisions of this chapter and the word "drain" shall be deemed to include such a project.

HISTORY Am. 1963, p. 322, Act 215, Imd. Eft. May 17.

280.486 Drain located entirely within municipality; petition. [M.S.A. 11.1486]

Sec. 486. The terms of this chapter shall be applicable to any county drain located, or proposed to be located, entirely within the limits of a single city, village or township, if such public corporation shall consent thereto by resolution adopted by its governing body. In such case any petition required to be filed hereunder shall be sufficient if signed by such public corporation only.

280.487 Drainage board, absence of members, deputies, vice-chairmen. [M.S.A. 11.1487]

Sec. 487. Any drain commissioner may act under this chapter or under chapter 21, being sections 511 to 537, inclusive, of this act, by his deputy, under any and all circumstances. The vice-chairman or chairman pro tem of a county board of supervisors, or the vice-chairman of a board of county auditors or of a finance committee of a county board of supervisors, may act in lieu of the chairman of such board or committee, in event of the absence of such chairman from a meeting of the drainage board.

280.488 Additional grant of power; prior projects. [M.S.A. 11.1488]

Sec. 488. The provisions of this chapter shall be construed as an additional grant of power to that prescribed by other statutory provisions.

Projects completed prior to November, 21, 1951, shall not be financed under this chapter.

280.489 New cities; service of notice on township clerks or de facto city officer. [M.S.A. 11.1489]

Sec. 489. Whenever a new city has been or shall be incorporated but such incorporation shall not have been completed by the adoption of a city charter, then any notice required by this chapter to be served upon the city clerk shall be served upon the clerk or clerks of the township or townships from which the city was incorporated: Provided. That if a city charter shall have been submitted, but rejected by the electors, then such notice shall also be served upon the de facto officer of the city, if there be such an officer. Service of any notice made prior to the effective date of this amendment, which was made in the manner provided in this section, is hereby declared to be a valid compliance with the terms of this act in respect to service upon the city clerk.

280.490 Public corporations; special assessment proceedings, initiating resolution, assessment roll, installments, hearing, objections; connection charges. [M.S.A. 11.1490]

Sec. 490. If the legislative body of a public corporation, which shall have been assessed under this chapter, shall determine that a part of the lands therein will be especially benefited by the drain project to the extent of any portion of the amount so assessed, then it may cause such portion to be assessed, according to benefits, against the especially benefited lands, provided such special assessment method of financing is not inconsistent with local financing policy as to similar drains and sewers. The assessment shall be made under the statutory or charter provisions governing special assessments in the public corporation insofar as they may be applicable, except that if there is no other drain assessment in the district on this particular drain, the special assessment proceedings may be initiated by resolution of the governing body of the public corporation without petition and any petition or written objection in opposition to the levying of special assessments shall be advisory only and shall not make necessary a petition for the project. After determining by resolution to proceed, the governing body shall then cause a special assess-

ment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments thereon shall be in accordance with the provisions of the statute or charter governing special assessments in the public corporation, except that the total assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll prepared by the public corporation to object to the special assessment district previously established by said public corporation in which event due consideration shall be given to the objections. In the event the special assessments shall be levied, then all collections therefrom shall be used towards the payment of the assessment at large against the public corporation and each annual levy to be made for the payment of such assessment at large shall be reduced by the amount of money then on hand from special assessment collections available for such use. This section shall be applicable only where the drain assessment roll is confirmed subsequent to the effective date of this section. Nothing herein contained shall be construed to prevent the assessing of public corporations at large under this chapter, it being the intention hereof to provide a method whereby a public corporation may raise moneys by special assessments as above provided where such procedure conforms with local practice. In lieu of or in addition to levying special assessments, the public corporation under the same conditions and for the same purpose may exact connection, readiness to serve availability or service charges to be paid by owners of land directly or indirectly connected with the drain project, or any combination thereof.

HISTORY: Add_1957, p. 44, Act 37, Imd. Eff. May 14 Am. 1965, p. 431, Act 253, Imd. Eff. July 21.

280.491 Intracounty drains; watercourses; flooding, pollution, petition to alleviate conditions. [M.S.A. 11.1491]

Sec. 491. A petition meeting the requirements of this chapter as to petitioners, execution and filing may request, for reasons of public health, that jurisdiction be assumed over all or a specified part of the bed, tributaries, banks and flood plains of a river, creek or watercourse, not part of an established drain. The petition shall describe the existing or threatened conditions which cause or increase the danger of flooding, pollution, desecration or obstruction of such river, creek or watercourse, and shall specify, in general terms, the works, property acquisition, actions or procedures deemed necessary to remove or lessen such danger.

HISTORY: Add. 1965, p. 311, Act 194, Imd. Eff. July 15.

280.492 Petition; content, deposit to pay cost; drainage board, hearing and notice. [M.S.A. 11.1492]

Sec. 492. The petitioners named in a petition filed pursuant to section 491, shall include therein an agreement to pay the amount of, or shall accompany the petition with a deposit in the amount of, the estimated cost of the planning and engineering required to describe in recordable form the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction is necessary and is to be assumed and the work to be done or property to be acquired according to the petition. Upon the filing of the petition with the agreement or deposit to pay costs, the initial actions and tentative determinations shall be taken and made with respect thereto as described in sections 466 and 467, and such description shall be obtained and approved and adopted by the drainage board. To assume jurisdiction of the bed, tributaries, banks and flood plains of the river, creek or watercourse and to perform the work proposed to be done thereon, if any, as so described, a meeting to hear objections to the assumption of such jurisdiction, to the petition therefor and to the proposed work or property acquisition shall be held as provided for other drain projects pursuant to this chapter. Notice of the hearing shall contain the description as approved and adopted by the drainage board.

HISTORY: Add. 1965, p. 311, Act 194, Imd. Eff. July 15.

280.493 Final order of determination; contents, recording, effect. [M.S.A. 11.1493]

Sec. 403. After the hearing, the drainage board shall determine whether or not it will assume jurisdiction and perform the work proposed, if any, and shall issue its order accordingly, which order shall be known as the "final order of determination". The final order of determination shall contain the description of the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction has been assumed and shall be recorded in the county records in the county in which any part thereof is located. After recording, no constructing, excavating, land filling, removing of structures, trees, plants or shrubs, dumping or discharging of sewers or drains shall be permitted or continued in the bed, tributaries, banks or flood plains of the river, creek or watercourse within the recorded description thereof, except upon written order or permit issued by the drainage board.

HISTORY: Add. 1965, p. 311, Act 194, Imd. Eff. July 15.

280.494 Same; recording effect on private rights. [M.S.A. 11.1494]

Sec. 404. The recording of the description does not appropriate, terminate or lessen any private rights in property, real or personal, except such as shall be voluntarily released by written agreement or conveyance or as shall be condemned as provided in this chapter, or pursuant to applicable law. The recording of the description constitutes a regulation and limitation, for reasons of public health, of the use of the public and private property therein described to remove or lessen the danger of flooding, pollution, desecration or obstruction of the river, creek or watercourse, or part thereof, involved.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. July 15.

280,495 Assessment of cost; hearing; powers. [M.S.A. 11.1495]

Sec. 495. Before any work, other than preparation of the description and the approval, adoption and recording of the same, is done or rights in or ownership of property is acquired by the drainage board, pursuant to a petition filed under section 491, the drainage board shall make a determination, following notice and a hearing as provided in this chapter, which may be the hearing provided for in section 492, as to the public corporations to be assessed for the cost of the work or acquisition. After the hearing and the determination to proceed with the work, the drainage board shall proceed in the same manner as is provided for other drain projects in this chapter and the drainage board shall have the rights and powers so provided.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. July 15.

CHAPTER 21.

INTERCOUNTY DRAINS; PUBLIC CORPORATIONS.

280.511 Definitions. [M.S.A. 11.1511]

Sec. 511. Whenever used in this chapter, except when otherwise indicated by the context:

(a) The term "state" shall be deemed to mean the state of Michigan.

(b) The term "public corporation" shall be deemed to include the state of Michigan, counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.

(c) The term "agencies" shall be deemed to include those officers, boards, commissions and other bodies created by public corporations or by the federal government, which are authorized to act in their own names.

(d) The term "director of agriculture" shall be deemed to mean the director of agriculture of the state of Michigan.

(e) The term "intercounty drain" shall be deemed to mean any drain as defined in this act, irrespective of size, carrying drainage water or sewage originating in more than 1 county. 280.512 Intercounty drains; public health, assessment against public corporations. [M.S.A. 11.1512]

Sec. 512. Intercounty drains which are necessary for the public health may be located, established and constructed under the provisions of this chapter where the cost thereof is to be assessed wholly against public corporations.

280.513 Same: petition, filing, signatures, contents, certified copy of resolution. [M.S.A. 11.1513]

Sec. 513. Whenever it shall be necessary for the public health to locate, establish and construct an intercounty drain, then a petition therefor may be filed with the director of agriculture signed by 2 or more public corporations which will be subject to assessments to pay the cost thereof. Such petition shall state that it is filed pursuant to the provisions of this chapter and shall describe the location and route of such proposed drain sufficiently to determine with reasonable certainty the areas to be drained thereby. Attached to said petition shall be a certified copy of the resolution of the governing body of each signer authorizing the affixing of its signature thereto. Such petition may be filed in more than 1 counterpart.

280.514 Drainage board; members, chairman. [M.S.A. 11.1514]

Sec. 514. There is hereby created for each project petitioned for under the provisions of this chapter, a drainage board to consist of the director of agriculture and the drain commissioner of each county involved in the project. The director of agriculture shall be the chairman of said board. Said board shall select 1 of its members as secretary.

280.515 Same; augmented board, members, chairman, secretary, compensation, mileage. [M.S.A. 11.1515]

Sec. 515. There is also hereby created for each project petitioned for under the provisions of this chapter, an augmented drainage board to consist of the members of the drainage board together with the chairman of the board of supervisors and the chairman of the board of county auditors of each county involved: Provided. That if there be no board of county auditors in any such county, then the chairman of the finance committee of the board of supervisors shall act as a member of said augmented drainage board, and if there be neither a board of county auditors nor finance committee, then the chairman of the board of supervisors shall select 1 member of the board of supervisors of his county to act as a member of said augmented drainage board. The chairman and secretary of the drainage board shall act as chairman and secretary, respectively, of the augmented drainage board. The chairman of the board of supervisors and any member of a board of supervisors serving on the augmented drainage board shall receive the same compensation and mileage as provided for members of the board of supervisors.

280.516 Minutes of meetings, secretary's duties, records, filing. [M.S.A. 11.1516]

Sec. 516. The secretary of the drainage board shall prepare and sign duplicate originals of the minutes of all proceedings of the drainage board and the augmented drainage board, one to be retained by him and the other to be filed with the director of agriculture. The originals of all proceedings and records of the drainage board and the augmented drainage board shall be kept on file with the secretary until the completion of the project, at which time they shall be forwarded to the director of agriculture for filing in his office. In the meantime the director of agriculture may require the secretary to furnish him with certified copies of records in the office of the secretary for filing in his office and such certified copies so filed shall have the same force and effect as the originals.

280.517 Preliminary finding, first meeting of boards, time and place, notice, selection of secretary. [M.S.A. 11.1517]

Sec. 517. Upon receipt of a petition as hereinbefore provided, the director of agriculture shall make a preliminary finding of the counties which, in his opinion, include public corporations that should be assessed under the provisions of this chapter for the cost of the proposed drain. Upon the making of such preliminary finding, the director of agriculture

shall give notice of the time and place of the first meeting of the drainage board and of the first meeting of the augmented drainage board, by sending a copy of such notice and of such preliminary finding by registered mail to each member thereof, and to each highway agency having jurisdiction over any highway, road and street in said district, which notice and finding shall be mailed not less than 10 days prior to the time of the meeting. In the event there be no board of county auditors or finance committee in any county involved, then notice to the chairman of the board of supervisors of such county shall be deemed to be notice to the member of the board of supervisors to be selected by him. The drainage board shall meet first, for the purpose of selecting a secretary. Upon the selection of a secretary, the director of agriculture shall turn over to such secretary the original petition and any other records in his office pertaining to the proposed drain.

280.518 Meetings of boards; notice, quorum, orders, signatures. [M.S.A. 11.1518]

Sec. 518. Meetings of the drainage board, or of the augmented drainage board, may be called by the chairman or any 2 members thereof, upon notice sent by registered mail to each member, which notice shall be mailed not less than 10 days previous to the time of the meeting. No notice of any meeting shall be required if all members are present. Any member of either of said boards may waive notice of any meeting, either before or after such meeting. A majority of the members of each board shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by either of said boards except by a majority vote of its members. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of such hearing. All orders issued by either the drainage board, or the augmented drainage board, shall be signed by the chairman and secretary.

280.519 Augmented board; tentative determination; name of drain and district; hearing; notice, publication; final order of determination; corrections. [M.S.A. 11.1519]

The said augmented drainage board at its first meeting shall consider the petition for the project and make a tentative determination as to the sufficiency thereof and the practicability of the proposed drain, and shall also make a tentative determination of the public corporations to be assessed. Said augmented drainage board shall give a name to the drain and to the drainage district. The district shall be composed of the public corporations to be assessed for the cost of the project. If the augmented drainage board shall by resolution tentatively determine that there should be assessed any public corporation in a county other than those contained in the tentative findings of the director of agriculture, then no further proceedings shall be taken by the augmented drainage board, but such resolution shall have the effect of amending the preliminary finding of the director of agriculture. The director of agriculture shall then proceed as in the first instance to call a new meeting of each the drainage board and the augmented drainage board as enlarged by reason of the inclusion of such additional public corporations in another county or counties. After the augmented drainage board has made the determination specified in the first sentence of this section, then it shall fix a time and place when and where it will meet to hear any objections to the proposed drain and the petition therefor, and to the matter of assessing the cost of such drain to the designated public corporations. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published therein, designated by the augmented drainage board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed except that any notice to the state shall be sent to the state highway commissioner and any notice to a county shall be sent to both the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the secretary and proof of the publication and mailing thereof shall be filed with the secretary. The augmented drainage board may provide a form to be substantially followed in the giving of such notice. At such hearing,

any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the augmented drainage board shall make a determination as to the sufficiency of the petition, the practicability of the drain, whether the drain should be constructed, and if so, the public corporations to be assessed, and shall issue its order accordingly, which order shall be known as the "final order of determination". No public corporation may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice as above provided. After the augmented drainage board has made the determinations above mentioned, then all further action in respect to such drain shall be taken by the drainage board: Provided, That the augmented drainage board may be reconvened by its chairman or any 2 members thereof, upon the same notice as hereinbefore provided for calling meetings, for the purpose of making any correction or addition to its proceedings within the scope of its powers.

280.520 Intercounty public corporation drains; plans, specifications, estimates, approval of route, designation of area served; apportionments. [M.S.A. 11.1520]

Sec. 520. The drainage board shall proceed to secure from a competent engineer, plans. specifications and an estimate of cost of the proposed drain, which when approved and adopted by the board shall be filed with the secretary thereof. In approving the plans and specifications, the drainage board shall not be limited to the route of the drain described in the petition or the final order of determination. The drainage board shall tentatively establish the percentage of the cost of such drain or of the several sections or parts thereof which is to be borne by public corporations in each county affected and by the state on account of any state highway, and by the county on account of any county highway. The percentage of the cost so apportioned to public corporations in each county shall then be apportioned by the drain commissioner thereof, among public corporations to be assessed in such county, which determination shall be filed with the secretary of the drainage board. In making the apportionments hereunder, there shall be taken into consideration the benefits to accrue to each public corporation and also the extent to which each public corporation contributes to the conditions which make the drain necessary. Apportionments against the state shall be based upon such benefits and contributions as related solely to the drainage of state highways, and those against the county shall be based as related solely to the drainage of its county highways. Before any tentative apportionment shall be made, the drainage board shall designate the area to be served by the drain project, which may or may not include all of the area in any public corporation to be assessed and may divide the drain into sections or parts for purposes of apportionment or construction. Nothing herein contained shall prohibit a county from assuming any additional cost of the drain if 2/3 of the members-elect of the county board of supervisors vote in favor thereof. The apportionment shall apply only to the proposed drain. The apportionments for any extensions or other work subsequently performed under section 535 shall be re-established by the board.

HISTORY: Am. 1957, p. 44, Act 37, Imd. Eff. May 14; -Am. 1963, p. 322, Act 215, Imd. Eff. May 17.

280.521 Hearing of objections, notice, contents; confirmation or readjustment of apportionments; final order of apportionment. [M.S.A. 11.1521]

Sec. 521. After the foregoing tentative apportionments of cost have been made, then the drainage board shall set a time and place when and where it will meet and hear any objections to such apportionments. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published therein, designated by the drainage board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and any notice to a county shall be sent both to the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the secretary and proof of the publication and mailing thereof shall be filed with the secretary. The drainage board may provide a form to be substantially followed in the giving of such

notice. The notice shall include tentative apportionments to the several public corporations. At such hearing any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the drainage board may confirm the apportionments as tentatively made, or, if in any respect it shall deem such apportionments to be inequitable, it shall readjust the same: Provided. That before any readjusted apportionments shall be confirmed, the drainage board shall set a time and place for a rehearing and shall give notice thereof as in the first instance, which notice shall also set forth the apportionments as readjusted. It shall then issue its order setting forth the several apportionments as confirmed, which order shall be known as the "final order of apportionment".

280.522 Lands and rights of way; condemnation, procedure; federal government participation; prior agreement as to highways; costs. [M.S.A. 11.1522]

Sec 522 The drainage board shall then proceed to secure the necessary lands or rights of way for the proposed drain. If the same cannot be secured by negotiation, then the drainage board may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or under the applicable provisions of sections 75 to 84 of this act, and shall be deemed to be a "state agency" as that term is used in said act, or if the project is one in which the federal government is participating in any manner, then such lands or rights of way may be acquired through proceedings brought by the federal government under any appropriate federal act. No such condemnation proceedings involving highways shall be effective to take title thereto without a prior agreement with the highway agency involved. In the event that lands or rights of way shall be acquired through proceedings under a federal act, then the amount of the awards in such proceedings shall be deemed to be a part of the cost of the drain to the same extent as if the condemnation proceedings had been taken under the laws of this state. HISTORY: Am. 1961, p. 220, Act 154, Imd. Eff. June 1.

280.523 Contracts with federal government or corporations; bids. [M.S.A. 11.1523]

Sec. 523. The drainage board may contract with the federal government, which term as used in this section shall include any agency thereof, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The drainage board may also contract with any private corporation or with any public corporation, which term as used in this section shall include any agency thereof, in respect to any matter connected with the construction, operation, maintenance, use or services of any drain. Such a contract may provide for service or transportation charges and that any payments made or work done by such a corporation shall relieve it in whole or in part from assessment for the cost of the drain or of its maintenance and operation. No construction work shall be undertaken until the drainage board has advertised for and received bids for the performance of such work, except for construction work to be performed by the federal government or a public corporation.

HISTORY: Am. 1963, p. 322, Act 215, Imd. Eff. May 17,

280.524 Designation of a county treasurer, deputy, bonds; expenditures. [M.S.A. 11.1524]

Sec. 524. The drainage board shall designate the treasurer of 1 of the counties involved as the treasurer for said board. He may designate 1 or more of his deputies who may act for him in the performance of any of his duties under this section. Such treasurer and any such deputy shall serve without additional compensation. He and each deputy county treasurer so designated shall furnish a bond in such sum as shall be fixed by the drainage board, conditioned upon the faithful discharge of his duties, the premium thereon to be paid by the drainage board. Moneys held by the treasurer shall be paid out only upon order of the drainage board, except that no such order shall be required for the payment of principal and interest on bonds.

HISTORY: Am. 1961, p. 47, Act 46, Imd. Eff. May 20.

280.525 Special assessment roll; installments, payment, interest, city tax levy. [M.S.A. 11.1525]

Sec. 525. After the confirmation of the apportionments by the drainage board, the secretary of the board shall prepare a special assessment roll assessing the estimated cost of the drain, or if the actual cost has been ascertained, then such actual cost, against the several public corporations in accordance with the confirmed apportionments. The drainage board may provide for the payment of the special assessments in any number of annual installments, not exceeding 30, but no installment shall be less than 40% of any subsequent installment. Installments of assessments against the state and against public corporations which collect their taxes beginning approximately December 1 in each year shall become due and payable on or before April 1 of each year. Installments of assessments against other public corporations shall become due and payable on or before such dates as shall be fixed by the drainage board, depending upon the times of the collection of taxes by such public corporations. The drainage board shall fix the amount of interest, not exceeding 6%, to be paid upon unpaid installments, which interest shall become due annually on the day and month upon which the annual installments become due. The drainage board may provide for the payment of any installments in advance of their respective due dates and may prescribe the terms and conditions thereof. The drainage board shall fix the time for the payment of the first installment so that each public corporation can make a tax levy for the payment thereof. Any city may elect to spread such tax levy upon the county tax roll instead of the city tax roll.

HISTORY: Am. 1957, p. 44, Act 37, Imd. Eff. May 14; Am. 1963, p. 323, Act 215, Imd. Eff. May 17.

280.526 Same; contents, approval; certification to public corporation assessed; annual notice; advancements. [M.S.A. 11.1526]

Sec. 526. The special assessment roll shall contain the name of each public corporation assessed, the total estimated cost of the project, or actual cost if the same has been ascertained at the time of the preparation of the roll, the percentage apportioned to each public corporation, the amount of the assessment against each public corporation based upon the percentage of apportionment, and the amount of each installment if the assessment is divided into annual installments. After the special assessment roll has been prepared, it shall be presented to the drainage board for approval. When the roll has been approved. then a statement to that effect signed by the chairman and secretary of the drainage board shall be affixed to the roll setting forth the date of approval. The chairman of the drainage board shall then certify to each public corporation assessed, the amount of the total assessment against it, the amount of the various installments if the assessment is divided into installments, the due date of each installment and the rate of interest upon installments from time to time unpaid. The chairman each year, at least 30 days prior to the time of the levying of taxes by each public corporation, shall notify it of the amount of the installment and interest next becoming due, but the failure to notify any public corporation shall not excuse it from making payment of the installment and interest. On or before the due date of any installment, each public corporation shall pay to its county treasurer the full amount thereof together with interest accruing to the due date, and within 15 days thereafter the county treasurer shall forward the amount so paid to the county treasurer acting as treasurer for the drainage board. If any public corporation fails or neglects to account to the county treasurer for the amount of any installment and interest, then the county treasurer shall advance the amount thereof from county funds in the following cases:

(1) If any bonds or other evidence of indebtedness have been issued to finance a project, the petition for which was filed after June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter and the board of supervisors has previously acted, by a resolution adopted by a 2/3 vote of its members elect to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on the bonds or evidences of indebtedness, or

(?) If any bonds or any other evidence of indebtedness have been issued to finance a project, the petition for which was filed prior to June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter.

Deductions for advancements; assessments against state; spread of tax; corrections.

The county treasurer shall deduct the total amount so advanced from any moneys other than those pledged for the payment of debts and those returned to the public corporation pursuant to article 10, section 23 of the state constitution, then or thereafter payable by him to such public corporation. The board of supervisors of any county which has advanced any money for a public corporation, and which has not been reimbursed therefor may order the public corporation and its officers to levy upon its next roll an amount sufficient to make the reimbursement on or before the date when its taxes become delinquent; and the public corporation and its tax levying and collecting officials shall levy and collect such taxes and reimburse the county. The foregoing shall not prevent the county from obtaining reimbursement by any other legal method. Assessments against the state shall be certified to the state highway commissioner and paid from state highway funds. The tax levying officials of each of the other public corporations assessed shall levy sufficient taxes to pay assessment installments and interest as the same become due unless there has been set aside money sufficient therefor. If a special assessment roll is prepared upon the basis of the estimated cost of the project, then after the actual cost has been ascertained and determined by the drainage board, the special assessments and the installments thereof shall be corrected by adding any deficiency or deducting any excess. The drainage board may order the corrections to be made upon the original roll or may order that a new corrected roll be prepared and submitted for approval by the drainage board.

HISTORY: Am. 1961, p. 358, Act 212, Imd. Eff. June 6: Am. 1963, p. 323, Act 215, Imd. Eff. May 47

280.527 Assessments and taxes not subject to statutory or charter debt and tax limitations. [M.S.A. 11.1527]

Sec. 527. Assessments made under the terms of this chapter shall not constitute an indebtedness of a public corporation within any statutory or charter debt limitation, and taxes levied by a public corporation for the payment of such assessments shall not be deemed to be within any statutory or charter tax limitation. Nothing contained in this chapter shall be construed as requiring any county, township, metropolitan district or authority to levy a tax beyond its constitutional tax limitation or any lawful increase thereof.

HISTORY: Am 1959, p. 87, Act 77, Imd. Eff. June 29.

280.528 Bonds, issuance, maturity, signatures; collection of assessments. [M.S.A. 11.1528]

Sec. 528. The drainage board may issue 1 or more series of bonds for and on behalf of the drainage district, in anticipation of the collection of any or all installments of assessments, and pledge the full faith and credit of the drainage district for the prompt payment of the principal thereof and the interest thereon. The bonds shall mature serially with the last maturity not later than 2½ years after the due date of the last installment of the assessments and there may be more than 1 principal maturity date during any 12-month period. The bonds shall be signed by the chairman and secretary of the drainage board, who shall cause their facsimile signatures to be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the treasurer for the drainage board and used for no other purpose than the payment of principal and interest on such bonds until the full payment thereof.

HISTORY: Am. 1963, p. 324, Act 215, Ind. Eff. May 17.

280.529 Additional assessment, apportionment. [M.S.A. 11.1529]

Sec. 529. If for any reason the original assessments shall not be sufficient to pay the principal and interest on bonds issued in anticipation of the collection thereof, then the drainage board shall make such additional assessments therefor as may be necessary, apportioned as in the first instance, it being the intention hereof that the collections on assessments shall under all circumstances be sufficient to pay said principal and interest.

280.530 Drainage board, continuation, responsibility, expenses. [M.S.A. 11.1530]

Sec. 530. The drainage board for each project shall continue in existence with such changes in personnel as shall result from changes in the offices of director of agriculture and drain commissioners. It shall be responsible for the operation and maintenance of the drain. Any necessary expenses incurred in administration and in the operation and maintenance of the drain and not covered by contract shall be paid by the several public corporations assessed for the cost of the drain. The assessments shall be in the same proportion as the cost of the drain was assessed unless the drainage board establishes a different proportion for the assessments after notice and hearing as provided in section 521 as this act.

280.531 Advancements by corporations, reimbursement. [M.S.A. 17.1531]

Sec. 531. Any public or private corporation, firm or individual may advance moneys for the payment of any part of the cost of a project hereunder, in which event it shall be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available therefor. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, but the contract or note shall not be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

280.532 Venue of actions; appointment of circuit judge. [M.S.A. 11.1532]

Sec. 532. Any action arising from the provisions of this chapter except such actions as may be brought directly in the supreme court may be brought in the circuit court of any county in which any part of the intercounty drain involved is located: Provided, That on request by any party to said action made prior to the time said action is instituted, or within 30 days after receipt of service of process, the presiding circuit judge of Michigan shall appoint a circuit judge to hear said action.

280.533 Costs, items. [M.S.A. 11.1533]

Sec. 533. The cost of any drain project shall include (1) the cost of constructing or acquiring the facilities, structures, devices and equipment required to locate, establish and construct the drain or to improve or supplement the same, including bridges and culverts and any lands or rights of way necessary thereto; (2) the administrative and other expenses of the drainage board and augmented drainage board including the cost of service and publication of all notices; (3) all engineering, legal and other professional fees; (4) interest on bonds for the first year, if bonds are to be issued, and interest on moneys advanced pursuant to section 531; and (5) an amount not exceeding 10% of the gross sum to cover contingent expenses.

HISTORY: Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

280.534 Deputy for director of agriculture, powers. [M.S.A. 11.1534]

Sec. 534. The director of agriculture may designate a deputy or an assistant to act in his stead in respect to the performance of his duties under this act. Where any deputy or assistant so acts, it shall be conclusively presumed that he was properly designated by the director of agriculture. Any official proceedings may be signed by such deputy or assistant in his own name. The signature of such deputy or assistant shall be followed by his official title. Where a deputy or assistant has been designated by the director of agriculture to act in his stead in connection with all the proceedings as to any project, then any notice required to be served upon or mailed to the director of agriculture may be served upon or mailed to such deputy or assistant. The director of agriculture is hereby empowered to appoint a deputy who shall have power to act in his place under any and all circumstances in respect to matters within the scope of this act, irrespective of whether or not he is authorized to appoint a general deputy.

280.539

280.535 Cleaning out and other improvements for public health; procedure, backfilling. [M.S.A. 11.1535]

Sec. 535. Any intercounty drain or any portion thereof, now or hereafter existing, may be cleaned out, relocated, widened, deepened, straightened, extended, tiled or otherwise improved, or branches added or connected thereto, when necessary for the public health, in the same manner as an intercounty drain may be located, established and constructed under this chapter, with such variations in the proceedings as may be necessary to make the same applicable, and also the cost thereof may be financed in like manner. A project to improve an intercounty drain may include backfilling and leveling any portion thereof no longer needed after the improvements.

HISTORY: Am. 1961, p. 48, Act 46, Imd. Eff. May 20; Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

280.536 Certiorari; time; legal establishment of drain. [M.S.A. 11.1536]

Sec. 536. Neither the final order of determination nor the final order of apportionment shall be subject to attack in any court except by proceedings in certiorari brought within 20 days after the filing of such order in the office of the secretary of the board issuing the same. If no such proceeding shall be brought within the time above prescribed, the drain shall be deemed to have been legally established and the legality of the drain and the assessments therefor shall not thereafter be questioned in any suit at law or in equity.

280.537 Procedures; incorporation of other chapters in drainage board orders. [M.S.A. 11.1537]

Sec. 537. In operating under the terms of this chapter, the several boards and officials shall not be limited by the provisions contained in other chapters of this act and the procedures required under the terms of such other chapters shall not be deemed to be applicable: Provided. That when not contrary to the express provisions of this chapter, any provision or provisions in other chapters of this act may be incorporated by recital or by references into any order or resolution of the drainage board or augmented drainage board, and when so incorporated shall be deemed applicable to the project under this chapter.

280.538 New cities; service of notice on township clerk or de facto city officer. [M.S.A. 11.1538]

Sec. 538. Whenever a new city has been or shall be incorporated but such incorporation shall not have been completed by the adoption of a city charter, then any notice required by this chapter to be served upon the city clerk shall be served upon the clerk or clerks of the township or townships from which the city was incorporated: Provided. That if a city charter shall have been submitted, but rejected by the electors, then such notice shall also be served upon the de facto officer of the city, if there be such an officer. Service of any notice made prior to the effective date of this amendment, which was made in the manner provided in this section, is hereby declared to be a valid compliance with the terms of this act in respect to service upon the city clerk.

280.539 Public corporations; special assessment proceedings, initiating resolution, assessment roll, installments, hearing, objections; connection charges. [M.S.A. 11.1539]

Sec. 539. If the legislative body of a public corporation, which shall have been assessed under this chapter, shall determine that a part of the lands therein will be especially benefited by the drain project to the extent of any portion of the amount so assessed, then it may cause such portion to be assessed, according to benefits, against the especially benefited lands, provided such special assessment method of financing is not inconsistent with local financing policy as to similar drains and sewers. The assessment shall be made under the statutory or charter provisions governing special assessments in the public corporation insofar as they may be applicable, except that the special assessment proceedings may be initiated by resolution of the governing body of the public corporation without petition and any petition or written objection in opposition to the levying of special assessments shall be advisory only and shall not make necessary a petition for the project.

After determining by resolution to proceed, the governing body shall then cause a special assessment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments thereon shall be in accordance with the provisions of the statute or charter governing special assessments in the public corporation, except that the total assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district previously established in which event due consideration shall be given to the objections. In the event such special assessments shall be levied, then all collections therefrom shall be used towards the payment of the assessment at large against the public corporation and each annual levy to be made for the payment of the assessment at large shall be reduced by the amount of money then on hand from special assessment collections available for such use. This section shall be applicable only where the drain assessment roll is confirmed subsequent to the effective date of this section. Nothing herein contained shall be construed to prevent the assessing of public corporations at large under this chapter, it being the intention hereof to provide a method whereby a public corporation may raise moneys by special assessments as above provided where such procedure conforms with local practice. In lieu of or in addition to levying special assessments, the public corporation, under the same conditions and for the same purpose, may exact connection, readiness to serve, availability or service charges to be paid by owners of land directly or indirectly connected with the drain project, or any combination thereof.

HISTORY: Add. 1957, p. 45, Act 37, Imd. Eff. May 14;—Am. 1965, p. 432, Act 253, Imd. Eff. July 21.

280.540 Relief drains. [M.S.A. 11.1540]

Sec. 540. When 2 or more public corporations, constituting as a whole contiguous territory, are served by 1 or more intercounty drains or by a combination of 1 or more intercounty drains and 1 or more county drains, and it is necessary for the public health to supplement such existing drain or drains by constructing 1 or more relief drains, which may consist of new drains and branches and connections thereto or extensions, enlargements, branches, connections or improvements described in section 535 to existing drains, or any combination thereof, then the entire project may be constructed and financed as a whole under the provisions of this chapter and the word "drain" shall be deemed to include such a project.

HISTORY: Add. 1959, p. 410, Act 261, Imd. Eff. Aug. 21;-Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

280.541 Intercounty drains; watercourses; flooding, pollution, petition to alleviate conditions. [M.S.A. 11.1541]

Sec. 541. A petition meeting the requirements of this chapter as to petitioners, execution and filing may request, for reasons of public health, that jurisdiction be assumed over all or a specified part of the bed, tributaries, banks and flood plains of a river, creek or watercourse, not part of an established drain. The petition shall describe the existing or threatened conditions which cause or increase the danger of flooding, pollution, desecration or obstruction of such river, creek or watercourse, and shall specify, in general terms, the works, property acquisition, actions or procedures deemed necessary to remove or lessen such danger.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. July 15.

280.542 Petition; content, deposit to pay costs, filing; drainage board, hearing and notice. [M.S.A. 11.1542]

Sec. 542. The petitioners named in a petition filed pursuant to section 541, shall include therein an agreement to pay the amount of, or shall accompany the petition with a deposit in the amount of, the estimated cost of the planning and engineering required to describe in recordable form the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction is necessary and is to be assumed and the work to be done or property to be acquired according to the petition. Upon filing such petition with the agreement or deposit to pay costs, the initial findings, actions and determinations shall

be made and taken with respect thereto as described in sections 517 and 519, and such description shall be obtained and approved and adopted by the augmented drainage board. To assume jurisdiction of the bed, tributaries, banks and flood plains of the river, creek or watercourse and to perform the work proposed to be done thereon if any, as so described, a meeting to hear objections to the assumption of such jurisdiction, to the petition therefor and to the proposed work or property acquisition shall be held as provided for other drain projects pursuant to this chapter. The notice of such hearing shall contain the description as approved and adopted by the augmented drainage board.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. July 15.

280.543 Final order of determination; contents, recording, effect. [M.S.A. 11.1543]

Sec. 543. After the hearing, the augmented drainage board shall determine whether or not it will assume such jurisdiction and perform the work proposed, if any, and shall issue its order accordingly, which order shall be known as the "final order of determination". The final order of determination shall contain the description of the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction has been assumed and shall be recorded in the county records in the county in which any part thereof is located After such recording, no constructing, excavating, land filling, removing of structures, trees, plants or shrubs, dumping, or discharging of sewers or drains shall be permitted or continued in the bed, tributaries, banks or flood plains of the river, creek or watercourse within the recorded description thereof, except upon written order or permit issued by the drainage board.

HISTORY: Add. 1965, p. 313, Act 194, Imd. Eff. July 15.

280.544 Same; recording effect on private rights. [M.S.A. 11.1544]

Sec. 544. The recording of the description does not appropriate, terminate or lessen any private rights in property, real or personal, except such as shall be voluntarily released by written agreement or conveyance or as shall be condemned as provided in this chapter, or pursuant to applicable law. The recording of the description constitutes a regulation and limitation, for reasons of public health, of the use of the public and private property therein described to remove or lessen the danger of flooding, pollution, desecration or obstruction of the river, creek or watercourse, or parts thereof, involved.

HISTORY: Add. 1965, p. 313, Act 194, Imd. Eff. July 15.

280.545 Assessment of costs, hearing; powers. [M.S.A. 11.1545]

Sec. 545. Before any work, other than preparation of the description and the approval, adoption and recording of the same, is done or rights in or ownership of property are acquired by the drainage board, pursuant to any petition filed under section 541, the augmented drainage board shall make a determination, following notice and a hearing as provided in this chapter, which may be the hearing provided for in section 542, as to the public corporations to be assessed for the cost of such work or acquisition. After the hearing and the determination to proceed with such work, the drainage board shall proceed in the same manner as is provided for other drain projects in this chapter and the drainage board shall have the rights and powers so provided.

HISTORY: Add. 1965, p. 313, Act 194, Imd. Eff. July 15.

CHAPTER 22.

WATER MANAGEMENT. DISTRICTS AND SUBDISTRICTS

280.551 Water management; definitions. [M.S.A. 11.1551]

Sec. 551. Whenever used in this chapter, except when otherwise indicated by the context:

a) The term "state" shall be deemed to mean the state of Michigan.

(b) The term "public corporation" shall be deemed to include the state of Michigan, counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.

(c) The term "agencies" shall be deemed to include those officers, boards, commissions and other bodies created by public corporations or by the federal government, which are authorized to act in their own names.

(d) The term "director of agriculture" shall be deemed to mean the director of agri-

culture of the state of Michigan.

- (e) The term "project" shall be deemed to mean any flood control or drainage project petitioned for or undertaken under the provisions of this chapter in any water management district or subdistrict. The term shall be deemed to include any alteration of streams, rivers drains, lakes, reservoirs, ponds, swamps, marshes, or any other waters, and any of the watersheds thereof. The term shall also include any dike, dam, reservoir, pumping station or other works involved in such alteration.
- (f) The term "water management district" shall be deemed to mean the area comprising all or part of 3 or more contiguous counties within a single drainage basin in which a project is petitioned for or undertaken under the provisions of this chapter, and shall include such counties and all public corporations within such area as shall be subject to assessment for the cost of such project.
- (g) The term "subdistrict" shall be deemed to mean the area comprising that portion of a water management district in which a project is petitioned for under the provisions of this chapter, which project benefits only I or more public corporations within the water management district. The term shall include only the public corporations or corporations so specially benefited by the project.

(h) The term "commission" shall be deemed to mean the water management commission of a water management district.

 The term "board" shall be deemed to mean the water management board of a water management district.

(j) The term "benefit" or "benefits" shall be deemed to mean advantages resulting from a project to public corporations, the inhabitants of public corporations, and property within public corporations. The term shall be limited to benefits which result from the drainage and control of water, and shall include such factors as: elimination of flood damage; elimination of water conditions which jeopardize the public health or safety; increase of the value or use of lands and property arising from improved drainage and elimination of floods; and the advantageous use to which water may be directed as a result of the project, and incidental thereto, for agricultural, conservation and recreational purposes.

280.552 Same; petition for flood control or drainage project, filing, signatures, contents, map. [M.S.A. 11.1552]

Sec. 552. Whenever it shall be necessary for the public health, safety or welfare to establish a water management district to undertake a project in all or part of 3 or more contiguous counties in this state for purposes of flood control or drainage, a petition therefor may be filed with the director of agriculture, signed by 3 or more public corporations, and, if a district with 8 or more counties, by 3 or more counties, which will be subject to assessments to pay the cost of such project. Such petition shall state that it is filed pursuant to the provisions of this chapter, shall set forth the proposed name of the district and the necessity for the project in the interest of the public health, safety or welfare; and shall

contain a general description of the type, purpose and location of the proposed project, which description need be only sufficiently accurate as to determine with reasonable certainty the waters, works and territory involved in the project and the public corporations to be benefited thereby. A map showing the boundaries of the proposed district and a certified copy of the resolution of the governing body of each public corporation, authorizing its signature thereto, shall be attached to the petition. Such petition may be filed in more than 1 counterpart.

280.553 Water management commission; members, appointment, compensation, expenses, approval of official plans, orders and assessments. [M.S.A. 11.1553]

Sec. 553. There is hereby created for each water management district petitioned for under the provisions of this chapter, a water management commission consisting of (a) the drain commissioner of each county within the district; (b) 1 representative of each county within the district, to be appointed by the county board of supervisors in the usual manner employed by such county in appointing members to county boards or commissions; (c) I representative of each city or village within the district with a population of 5.000 or more according to the latest or each succeeding federal decennial census, and 1 additional representative for each 20,000 of population or any major fraction thereof by which the population of such city or village exceeds 10,000, to be appointed by the governing body: Provided. That no city or village shall have more than 10 representatives; (d) 1 director of a soil conservation district to be designated by the directors of all such districts within a water management district; and (e) the director of agriculture, who shall serve as chairman of the commission. County soil conservation district and city or village representatives shall be resident property owners of the district, and shall serve at the pleasure of the appointing body. Each member of the commission appointed by a county board of supervisors and county soil conservation districts shall receive the same compensation and mileage as provided for supervisors of his respective county, and each city or village member shall receive the same compensation as provided for the representative appointed by the county board of supervisors of the county in which the city or village is located: Provided. That members who are drain commissioners, or who are county or city employees. shall be reimbursed for actual and necessary expenses but shall not receive any other compensation. The director of agriculture or his deputy shall not receive any compensation or reimbursement for expenses incurred as a member of the commission. A vote of 3/5 of all of the members of the commission shall be required to approve any preliminary or final order of determination, official plan, final order of apportionment, or other matter involving any assessment or increase in assessment of costs.

280.554 Water management board, members, term, vacancy, qualification, chairman, procedure. [M.S.A. 11.1554]

Sec. 554. (a) For each water management district created under the provisions of this chapter, there is also created a water management board, to consist of 5 members appointed by the water management commission for terms of 5 years each: Provided, That of the members first appointed. I shall be apointed for a term of 1 year. I for a term of 2 years, 1 for a term of 3 years, 1 for a term of 4 years, and 1 for a term of 5 years: Provided further, That the service of any member of the water management board may be terminated at any time by resolution of the water management commission adopted by a majority of all the members of such commission and his successor appointed in the same manner, and for the remainder of the term, as in the case of an original appointment. Vaccancies on the board occurring for any other reason shall be filled in the same manner as an original appointment and for the remainder of the term. Members of the water management board shall be resident property owners of the district. In the event that the total of all assessments within any county included in the water management district is 25% or more of the cost of a project which is to be assessed against all public corporations

within the district, the commission shall appoint a resident property owner of such county as 1 of the members of the board. In the event a water management district shall include less than 5 counties, the number of members of the board shall be reduced in number to the number of counties included in the water management district. The board at its first meeting shall elect a chairman and adopt such rules of procedure, not inconsistent with the provisions of this chapter, as it finds advisable.

Employees; treasurer, bond; secretary; annual audit.

(b) The board is hereby authorized to hire such employees as it shall deem necessary and determine their compensation. No such employee shall be a member of either the commission or board. The board shall designate the treasurer of 1 of the counties of the district, who shall serve as treasurer of the district and furnish a bond in a sum to be fixed by the board, conditioned on the faithful discharge of his duties, the premium thereon to be paid by the water management district. Moneys held by the treasurer shall be paid out only upon order of the board, except that no such order shall be required for the payment of principal and interest on bonds. The secretary of the board shall also serve as secretary of the commission. The board shall cause the accounts of the treasurer to be audited annually by a certified public accountant, the expense thereof to be paid by the water management district.

280.555 Meetings, notice, quorum, adjournment; orders, signatures; minutes, filing, certified copies, meetings open to public; records, inspection. [M.S.A. 11.15551

Sec. 555. The provisions of this section shall pertain to either the water management commission or the water management board. Meetings may be called by the chairman or any 2 members of either body, upon notice sent by registered mail to each member, which notice shall be mailed not less than 10 days previous to the time of the meeting. No notice of any meeting shall be required if all members are present. Any member may waive notice of any meeting, either before or after such meeting. A majority of the members shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by either body except by a majority vote of the members present and voting. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of such hearing. All orders issued by either body shall be signed by its chairman and secretary. The secretary shall prepare and sign duplicate originals of the minutes of all proceedings of the body, one to be retained by him and the other to be filed with the director of agriculture. The originals of all proceedings and records shall be kept on file with the secretary. The director of agriculture may require the secretary to furnish him with certified copies of records of either body in the office of the secretary for filing in his office, and such certified copies so filed shall have the same force and effect as the originals. All meetings shall be open to the public, and records of either body shall be considered public records and available for inspection during regular office hours.

280.556 Petitions, review; notice of first meeting. [M.S.A. 11.1556]

Sec. 556. Within 30 days following receipt of a petition as provided in section 552 of this act, the director of agriculture shall review the petition for sufficiency and accuracy, shall make a preliminary finding of the counties which in his opinion include public corporations that should be assessed under the provisions of this chapter, and shall mail written notice of the first meeting of the water management commission to the county clerk and drain commissioner of each such county, to the highway agencies having jurisdiction over all highways, roads and streets in said district, to the secretary of each soil conservation district and to the city or village clerk of each city and village within such counties with a population of 5.000 or more according to the latest or each succeeding federal decennial census, which in his opinion are subject to assessment for the cost of the project. Such notice shall request the appointment of a representative of each public corporation so notified to the commission and shall state the time and place of the first meeting, which shall

be held not less than 30 nor more than 45 days following the mailing thereof. In the event a county board of supervisors of any such county does not meet in a regular or special session prior to the date of the first meeting of the commission, the chairman of the board of supervisors shall represent the county at the first meeting, and the board of supervisors shall appoint a member to the commission at its next regular or special session. Failure of the governing body of any public corporation entitled to representation to appoint a member to the commission shall not prevent the inclusion of such public corporation in the water management district, nor exempt it from assessment or other obligations imposed by this chapter, but such public corporation shall be without representation until it shall appoint a member. The director of agriculture shall also send notice of the first meeting to the director of the department of conservation, the state highway commissioner and the county road commission of each county within the district.

280.557 Water management commission; temporary secretary, by-laws, tentative determination, amendment of petition, notice of adjourned meeting; dismissal of petition; name of district; board; tentative determination; preliminary plans. [M.S.A. 11.1557]

Sec. 557. The commission shall elect a temporary secretary, and may adopt rules of procedure or by-laws, not inconsistent with the provisions of this chapter. The commission shall also consider the petition for the project, and shall make a tentative determination as to the sufficiency of the petition and the necessity and practicability of the proposed project. If the commission shall determine that the petition is insufficient, it may enter an order amending or supplementing such petition, which order shall be deemed to constitute a part of the petition. If such order shall result in the inclusion of any additional public corporation which is entitled to designate a member to the commission, the commission shall adjourn the meeting and shall notify the clerk of such public corporation of the time and place of the adjourned meeting, which notice shall be given in conformity with the requirements of the notice provided for in section 556 of this act. If the commission shall at any time determine that the project is not necessary or practicable, it shall order the petition dismissed, and proceedings under such petition shall be thereby terminated. Where a petition for a project has been dismissed, such project shall not be petitioned for again under this act for a period of 1 year. If the commission shall find the project necessary and practicable and the petition, in original form or as amended by order of the commission, sufficient, it shall proceed forthwith to select a name for the district, elect a water management board, and make a tentative determination of the public corporations to be assessed for the costs of the project. The commission shall procure preliminary plans which include an estimate of costs of the project, benefits which will result therefrom to the various public corporations comprising the district, and the extent to which each public corporation contributes to the conditions which make the project necessary. The commission shall make a tentative determination, based upon such plans, of the percentage of costs to be assessed to each public corporation comprising the district, and shall transmit a written copy of such determination, together with the petition, any orders amendatory and supplementary thereto, and the preliminary plan to the water management board.

280.558 Water management board; hearing on objections to project, notice, publication, form; preliminary order of determination. [M.S.A. 11.1558]

Sec. 558. The water management board shall thereupon fix a time and place when and where it will meet to hear any objections to the proposed project, the petition therefor, and to the assessments of costs as contained in the tentative determination of the commission. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published and circulated therein, designated by the board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and the director of conservation and any notice to a county shall be sent to both the county clerk and the county road commission, if any, which mail-

ing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the secretary of the board and proof of the publication and mailing thereof shall be filed with the secretary. The board may provide a form to be substantially followed in the giving of such notice. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the board shall make a preliminary determination as to the sufficiency of the petition, the necessity and practicability of the project, whether the project should be undertaken, and if so, the public corporations to be assessed, and shall issue a preliminary order accordingly, which order shall be known as the "preliminary order of determination". No public corporation may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice as above provided, except as provided in section 559 of this act.

280.559 Assessment, basis. [M.S.A. 11.1559]

Sec 550. Any assessment of any nature or kind determined or made under the provisions of this chapter shall be based upon benefits to the public corporation assessed and upon the extent to which such public corporation contributes to the conditions which make a project necessary: Provided. That assessments against the state shall be based solely upon the drainage or prevention of flooding of state highways, and those against the county shall be based solely upon the drainage or prevention of flooding of its county highways. This rule shall govern the director of agriculture, the commission, the board, drain commissioners and any other person in any action relating to determining public corporations to be assessed and in the making of assessments.

280.560 Preliminary plans, approval; detailed plans, contents, approval; official plans, filing. [M.S.A. 11.1560]

Sec. 560. The board shall secure the approval of the Michigan water resources commission of the preliminary plans for the project, as soon as may be reasonably possible, and before procuring detailed plans. After approval by the water resources commission of the preliminary plans and after the board has made its preliminary order of determination, the board shall secure detailed plans for the project from a competent engineer and such other qualified personnel as are necessary. The detailed plans shall include detailed plans and specifications of the project and an estimate of costs of the project. The detailed plans shall be submitted to the water resources commission for its approval, and no construction shall be undertaken until the detailed plans are approved. The board shall also submit the detailed plans to the water management commission for approval before any construction of the project is undertaken. The commission shall review the plans and either adopt them or recommend revisions. Revisions recommended by the commission shall be submitted by the board to the water resources commission for approval as hereinbefore provided. When the detailed plans have been approved by both the water management commission and water resources commission, they shall be known as the "official plans" and shall be filed with the secretary of the board. In approving the plans, the commission shall not be limited to matters described in the petition.

280.561 Tentative percentage of cost for assessment, apportionment. [M.S.A. 11.1561]

Sec. 561. After adoption of the official plans, the commission shall proceed to tentatively establish the percentage of cost of the project to be assessed against public corporations within each county within the district, and against the state and counties on account of drainage and prevention of flooding of state and county highways. The percentage of cost so apportioned to public corporations in each county shall then be apportioned by the commission among public corporations to be assessed in such county, which determination shall be filed with the secretary of the board.

280.562 Same; hearing on objections to apportionment, notice, publication; report of findings. [M.S.A. 11.1562]

Sec. 562. After the foregoing tentative apportionments of costs have been made, the board shall set a time and place when and where it will meet and hear any objections to such apportionments. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published therein, designated by the board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and the director of the Michigan department of conservation and any notice to a county shall be sent both to the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the secretary and proof of the publication and mailing thereof shall be filed with the secretary. The board may provide a form to be substantially followed in the giving of such notice. The notice shall include tentative apportionments to the several public corporations. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the board shall make a written report of its findings on the apportionments to the commission, which may either confirm the apportionments as tentatively made or may recommend readjustments of any apportionments deemed by it to be inequitable.

280.563 Water management commission; review of board's apportionment; final order of apportionment; annual meeting; work plan, advisory committees. [M.S.A. 11.1563]

The commission shall meet for the purpose of considering the apportionments and report made by the board. The commission may readjust the apportionments: Provided. That before any readjusted apportionments shall be confirmed, the commission shall set a time and a place for rehearing and shall give notice thereof and hold a hearing thereon, as provided in section 562, which notice shall also set forth the apportionments as readjusted. The commission shall then issue its order setting forth the several apportionments as confirmed, which order shall be known as the "final order of apportionment" All further action with respect to the project shall be taken by the board: Provided, That the commission may be reconvened at the call of its chairman, any 2 members thereof, or at the request of the board for the purpose of making any correction or addition to its proceedings within the scope of its powers: And provided further. That the commission shall meet at least once annually. At its annual meeting the commission shall elect a member of the board, approve assessments for operation and maintenance, approve a work plan for the district for the ensuing year, and conduct such other business as is within its powers under the provisions of this act. The commission may appoint such advisory committees as it deems necessary.

280.564 Lands and rights of way; condemnation, procedure, federal governmental participation; costs. [M.S.A. 11.1564]

Sec. 564. The board shall then proceed to secure the necessary lands and/or rights of way for the proposed project. If the same cannot be secured by negotiation, then the board may proceed under the provisions of Act No. 140 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, and shall be deemed to be a "state agency" as that term is used in said act, or if the project is one in which the federal government is participating in any manner, then such lands and/or rights of way may be acquired through proceedings brought by the federal government under any appropriate federal act: Provided, That no condemnation proceeding under this act shall be instituted until the board has first given written notice by registered mail to the highway agencies having jurisdiction over any highway, road or street affected by the lands or rights of way to be acquired by such condemnation proceeding. In event that lands and/or rights of way shall be acquired through proceedings under a federal act, then the amount of the awards in such proceeding shall be deemed to be a part of the cost of the project to the same extent as if the condemnation proceedings had been taken under the laws of this state.

280.565 Contracts with federal government or corporations; bids. [M.S.A. 11.1565]

Sec 565. The board may contract with the federal government (which term as used in this section shall include any agency thereof) whereby the federal government will pay the whole or any part of the cost of the project and/or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The board may also contract with any private corporation or with any public corporation (which term as used in this section shall include any agency thereof) in respect to any matter connected with the construction and/or maintenance of any project. Such a contract may provide that any payments made or work done by such a public corporation shall relieve it in whole or in part from assessment for the cost of the project. No construction work shall be undertaken until the board has advertised for and received bids for the performance of such work and a contract let to the lowest responsible bidder: Provided. That this provision shall not apply to work to be performed by the federal government or a public corporation.

280.566 Special assessment roll; installments, payment, interest. [M.S.A. 11.1566]

After the confirmation of the apportionments by the commission, the board shall cause to be prepared by the secretary of said board a special assessment roll assessing the estimated cost of the project (or if the actual cost has been ascertained, then such actual cost) against the several public corporations in accordance with the confirmed apportionments. The board may provide for the payment of such special assessments in any number of approximately equal annual installments, not exceeding 20. Installments of assessments against the state and against public corporations which collect their taxes beginning approximately December first in each year shall become due and payable on or before April first of each year. Installments of assessments against other public corporations shall become due and pavable on or before such date or dates as shall be fixed by the board, depending upon the time or times of the collection of taxes by such public corporations. The board shall fix the amount of interest, not exceeding 6%, to be paid apon unpaid installments, which interest shall become due annually on the day and month upon which the annual installments become due. Any installment or installments may be paid in advance of the due date thereof with interest computed to the next installment due date. The board shall fix the time or times for the payment of the first installment so that each public corporation can make a tax levy for the payment thereof.

280.567 Same; contents, approval; certification to corporation assessed; annual notice of installment and interest; advancement by county; assessment against state; correction of assessment. [M.S.A. 11.1567]

Sec. 567. The special assessment roll shall contain the name of each public corporation assessed, the total estimated cost of the project (or actual cost if the same has been ascertained at the time of the preparation of the roll), the percentage apportioned to each public corporation, the amount of the assessment against each public corporation based upon the said percentage of apportionment, and the amount of each installment if the assessment is divided into annual installments. After the said special assessment roll has been prepared, it shall be presented to the board for approval. When such roll shall have been approved, then a statement to the effect signed by the chairman and secretary of the board shall be affixed to said roll setting forth the date of such approval. The chairman of the board shall then certify to each public corporation assessed, the amount of the total assessment against it, the amount of the various installments if such assessment is divided into installments, the due date of each installment and the rate of interest upon installments from time to time unuaid. The treasurer shall also each year, at least 30 days prior to the time of the levying of taxes by each public corporation, notify it of the amount of the installment and interest next becoming due: Provided. That the failure to so

notify any public corporation shall not excuse it from making payment of such installment and interest. On or before the due date of any installment, each public corporation shall pay to its county treasurer the full amount thereof together with interest accruing to such due date, and within 15 days thereafter such county treasurer shall forward the amount so paid to the treasurer of the board. If any such public corporation shall fail or neglect to so account to the county treasurer for the amount of any such installment and interest, then the county treasurer shall advance the amount thereof to the treasurer of the board from county funds and deduct the same from any moneys (other than those pledged for the payment of debts) then or thereafter payable by him to such public corporation. The poard of supervisors of any county which shall have advanced any money for a public corporation, and which shall not have been reimbursed therefor, may order such public corporation and its officers to levy upon its next tax roll an amount sufficient to make such reimbursement on or before the date when its taxes become delinquent; and it shall be the duty of such public corporation and its tax levying and collecting officials to levy and collect such taxes and to reimburse the county: Provided. That the foregoing shall not prevent the county from obtaining reimbursement by any other legal method. Assessments against the state shall be certified to the state highway commissioner and paid from state highway funds. It shall be the duty of the tax levying officials of each of the other public corporations assessed to levy sufficient taxes to pay assessment installments and interest as the same shall become due unless there shall have been set aside moneys sufficient therefor. If a special assessment roll shall be prepared upon the basis of the estimated cost of the project, then after the actual cost has been ascertained and determined by the board, the special assessments and the installments thereof shall be corrected by adding any deficiency or deducting any excess, or refunding the amount of any prepaid assessment in excess of the assessment based upon actual cost. The board may order such corrections to be made upon the original roll or may order that a new corrected roll be prepared and submitted for approval by the board.

280.568 Assessments and taxes not subject to statutory or charter debt or tax limitations. [M.S.A. 11.1568]

Sec. 568. Assessments made under the terms of this chapter shall not constitute an indebtedness of a public corporation within any statutory or charter debt limitation, and taxes levied by a public corporation for the payment of such assessments shall not be deemed to be within any statutory or charter tax limitation.

280.569 Bonds, issuance, maturity, signatures; collection of assessments. [M.S.A. 11.1569]

Sec. 569. The board may issue bonds for and on behalf of the water management district, in anticipation of the collection of any or all installments of assessments, and pledge the full faith and credit of the water management district for the prompt payment of the principal thereof and the interest thereon. Such bonds shall mature serially with the last maturity not later than 2½ years after the due date of the last installment of the assessments: Provided, That there may be more than 1 principal maturity date during any 12-month period. The bonds shall be signed by the chairman and secretary of the board, who shall cause their facsimile signatures to be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the treasurer for the board and used for no other purpose than the payment of principal and interest on such bonds until the full payment thereof.

280.570 Additional assessment, apportionment. [M.S.A. 11.1570]

Sec. 570. If for any reason the original assessment shall not be sufficient to pay the principal and interest on bonds issued in anticipation of the collection thereof, then the board shall make such additional assessments therefor at may be necessary, apportioned as in the first instance, it being the intention hereof that the collections on assessments shall under all circumstances be sufficient to pay said principal and interest.

280.571 Water management board; continuation, responsibility; budget, hearing, adoption. [M.S.A. 11,1571]

Sec. 571. The board shall continue in existence with such changes in personnel as shall result from appointment of members by the commission. It shall be responsible for the operation and maintenance of district projects. The board shall prepare annually and submit to the commission a tentative budget for the maintenance and operation of district projects together with the percentage of such costs proposed to be assessed against each of the several public corporations. The commission shall give 10 days' notice by registered mail of the hearing on the budget to each public corporation in the district. After such hearing, a budget shall be adopted and the assessment against each public corporation determined.

280.572 Advancements by corporations, reimbursement. [M.S.A. 11.1572]

Sec. 572. Public corporations may advance funds for the payment of any part of the cost of a project hereunder and shall be repaid by the district when funds are available therefor. The board is hereby authorized to assess preliminary costs in an equitable manner prior to the issuance of bonds, against public corporations within the district, to be assessed and collected as provided in section 567 of this act: Provided, That the percentage of such costs to be assessed against such public corporations shall be approved by the commission.

280.573 Costs; items, contingent expenses. [M.S.A. 11.1573]

Sec. 573. The cost of any project shall include (1) the cost of locating, establishing and constructing the project; (2) the administrative staff, office and other expenses of the board and commission; (3) the cost of construction of all works and appurtenances necessary to efficient operation and maintenance of the project; (4) the cost of acquiring any lands and or rights of way; (5) all engineering legal and other professional fees; (6) the cost of the service and publication of all notices; (7) interest on bonds for the first year, if bonds are to be issued; and (8) an amount not exceeding 10% of those costs which are to be assessed against public corporations, to cover contingent expenses.

280.574 Water management commission, powers. [M.S.A. 11.1574]

Sec. 574. The commission of any water management district created under this act may authorize the board to (a) sell surplus water acquired as a result of construction of projects; (b) lease district-owned lands for agricultural or other purposes; (c) cooperate with soil conservation districts in control of soil erosion; and (d) develop and operate recreational facilities on district-owned property, either in cooperation with the Michigan department of conservation and/or public corporations within the district, or independently when it is not feasible or practical for the department or such public corporations to provide and operate the facilities; Provided. That if any such acts shall result in additional expense they shall not be authorized until after public hearing as provided in section 558 of this act.

280.575 Subdistrict; petition; official plan, final order of apportionment of cost; assessment. [M.S.A. 11.1575]

Sec 575. In the event it shall be necessary for the public health, safety or welfare to undertake a project within a portion of a water management district which will benefit only 1 or more contiguous public corporations within the water management district, a petition may be filed with the secretary of the commission, signed by 1 or more of the public corporations which will be benefited by the project for the creation of a subdistrict to undertake such project. The petition shall be in conformity with the requirements of petitions for the creation of water management districts insofar as such requirements are applicable thereto. No commission or board shall be created for any subdistrict, but the commission and board of the water management district shall serve in such capacity with respect to

the subdistrict. The commission shall determine whether or not it desires to undertake the project before any further action is taken thereon. If the commission shall determine to undertake the project, the commission and board shall proceed to adoption of an official plan and final order of apportionment in the same manner as provided in this chapter in the case of district projects: Provided, That in all actions of the commission involving the subdistrict, other than the determination aforesaid, only members of the commission from public corporations comprising the subdistrict shall be entitled to vote and the vote of a majority of such members shall control. The cost of the project within the subdistrict shall be assessed only against public corporations comprising the subdistrict, but may be financed as a part of the cost of other projects within the water management district. Except as herein otherwise provided all provisions of this chapter pertaining to projects in water management districts shall pertain to projects in subdistricts insofar as applicable thereto.

280.576 Water management district in interstate river basin, powers of commission. [M.S.A. 11.1576]

Sec. 576. Whenever it shall be necessary for the public health, safety or welfare to establish a water management district in all or part of 1 or more contiguous Michigan counties lying within an interstate river basin, to undertake a project in cooperation with districts in states adjoining Michigan for purposes of flood control or drainage, such district may be created, and such project shall be authorized, financed and constructed in conformity with the provisions of this chapter, except as otherwise provided in this section. If such district shall consist of less than 3 counties, the commission shall exercise all powers and perform all functions and duties of the board, and the boards of supervisors of said counties may increase the membership of said commission by a majority vote of all of said boards of supervisors. The commission of such district shall also have power to enter into contracts with other states, or its agencies, or water management districts of other states, with respect to apportionment of the costs of such project between the said Michigan district and said other state or its agencies or water management districts of other states, and with respect to any matter connected with the construction and maintenance of the project or any part thereof.

280.577 Venue of actions; appointment of circuit judge. [M.S.A. 11.1577]

Sec. 577. Any action arising from the provisions of this chapter except such actions as may be brought directly in the supreme court may be brought in the circuit court of any county in which any part of the project involved is located: Provided. That on request by any party to said action made prior to the time said action is instituted, or within 30 days after receipt of service of process, the presiding circuit judge of Michigan shall appoint a circuit judge to hear said action.

280.578 Deputy for director of agriculture, powers. [M.S.A. 11.1578]

Sec. 578. The director of agriculture may designate a deputy to act in his stead in respect to the performance of his duties under this chapter. Where any deputy so acts, it shall be conclusively presumed that he was properly designated by the director of agriculture. Any official proceedings may be signed by such deputy in his own name. The signature of such deputy shall be followed by his official title. Where a deputy has been designated by the director of agriculture to act in his stead in connection with all the proceedings as to any project, then any notice required to be served upon or mailed to the director of agriculture may be served upon or mailed to such deputy. The director of agriculture is hereby empowered to appoint a deputy who shall have power to act in his place under any and all circumstances in respect to matters within the scope of this chapter, irrespective of whether or not he is authorized to appoint a general deputy.

280.579 Intercounty drain constructed or improved for public health as part of flood control project. [M.S.A. 11.1579]

Sec. 879. Any intercounty drain or any portion thereof now or hereafter existing may be constructed, cleaned out, relocated, widened, deepened, straightened, tiled or otherwise improved when necessary for the public health, as a part of any flood control project under the provisions of this chapter.

280.580 Public and private construction in works owned by water management district, plans, approval. [M.S.A. 11.1580]

Sec. 580. Plans for the alteration or construction of any bridge, road, pipe line, power line, drain, sewer or other public and private construction in, into or across any right of way or in, into or across any drain, channel, dike, reservoir or other works owned, constructed and controlled by a water management district shall be submitted to the board prior to construction, and the board is hereby authorized to prescribe the manner in which such public or private works shall cross, be adjusted to or connected with any right of way, channel, dike, reservoir or other construction owned or controlled by the district.

280.581 Certiorari; time; legal establishment of project. [M.S.A. 11.1581]

Sec. 581. Neither the final order of determination nor the final order of apportionment shall be subject to attack in any court except by proceedings in certiorari brought within 30 days after the filing of such order in the office of the secretary of the board issuing the same. If no such proceeding shall be brought within the time above prescribed, the project shall be deemed to have been legally established and the legality of the project and the assessments therefor shall not thereafter be questioned in any suit at law or in equity: Provided. That all notices given under this chapter shall include the language contained in this section prior to this provision.

280.582 Provisions applicable. [M.S.A. 11.1582]

Sec. 582. In operating under the terms of this chapter, the several boards and officials shall not be limited by the provisions contained in other chapters of this act and the procedures required under the terms of such other chapters shall not be deemed to be applicable.

280.583 Validation of prior bonds. [M.S.A. 11.1583]

Sec. 583. The provisions of this chapter shall not be construed to validate and shall not validate any bonds or other obligations issued prior to August 13, 1954.

CHAPTER 23. PENALTIES.

280.601 Drain commissioner; interest in contract prohibited; penalty. [M.S.A. _ 11.1601]

Sec. 601. If any commissioner is interested directly or indirectly in the profits of any contract, job, work or services, other than official services, to be performed for the drainage district, he is deemed to be guilty of a misdemeanor, and the office of such commissioner shall be deemed vacant and the commissioner so convicted shall be incapable of again holding the office of county drain commissioner.

HISTORY: Am. 1965, p. 131, Act 98, Imd. Eff. June 28.

280.602 Removal of stakes, injury to drain; penalty. [M.S.A. 11.1602]

Sec. 602. If any person shall wilfully or maliciously remove any section or grade stake set along the line of any drain, or obstruct or injure any drain, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$100.00 and the costs of prosecution, or in default of the payment thereof, by imprisonment in the county jail not exceeding 90 days.

CHAPTER 24.

REPEALS AND SAVING CLAUSES.

280.621 Repeal. [M.S.A. 11.1621]

Sec. 621. Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 278B.33, inclusive, of the Compiled Laws of 1948. Act No. 243 of the Public Acts of 1931, being sections 279.1 and 279.2 of the Compiled Laws of 1948, Act No. 38 of the Public Acts of the First Extra Session of 1932, being sections 279.11 to 279.17, inclusive, of the Compiled Laws of 1948, and Act No. 158 of the Public Acts of 1929, as amended, being sections 279.101 to 279.123, inclusive, of the Compiled Laws of 1948, are hereby repealed

280.622 Amendment of act during progress of drain proceedings; applicable law. [M.S.A. 11.1622]

Sec. 622. In cases where the law shall have been amended during the progress of any drain proceedings, such proceedings shall not be invalidated by any such amendment, but may be continued to completion, and each step shall be governed by the law in force at the time such step was taken. Any drain proceedings pending when this act takes effect shall be completed in the manner prescribed in this act.

280.623 Saving clause. [M.S.A. 11.1623]

Sec. 623. This act shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

SUPPLEMENTAL CHAPTER-DRAINS

Act 157, 1953, p. 188; Imd. Eff. June 2,

AN ACT to authorize the extension of time of payment of certain drain taxes; to provide for the assessment, levy and collection of such deferred drain taxes; to authorize the payment of drainage district bonds issued in anticipation of the collection thereof; and to provide for the disposition of such drain taxes when collected.

The People of the State of Michigan enact:

279.31 Drain taxes; extending time of payment, maximum; drainage district bonds, payment. [M.S.A. 11.170(1)]

Sec. 1. In any county of this state in which there are situated any lands assessed since the year of 1945 for special drain taxes and/or any townships, cities and/or villages assessed at large for special drain taxes, for county drains, which taxes were assessed in only 1 installment, the board of supervisors of such county is hereby authorized to extend the time of payment of such drain taxes in not to exceed 7 yearly installments, in the manner and on the conditions hereinafter set forth, and is further authorized to assume on behalf of the county the payment of any drainage district bonds issued in anticipation of the collection thereof.

279.32 Same; resolution of board of supervisors. [M.S.A. 11.170(2)]

Sec. 2. The board of supervisors may, by resolution, by a 2/3 vote of the members of such board, provide for the extension of the time of payment of such drain taxes in not to exceed 7 yearly installments against the property now assessed, and against the political subdivisions assessed at large, and in the same proportion as now assessed, together with any interest on any installment until due as provided in Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 277.9, inclusive, of the Compiled Laws of 1948.

279.33 Same; unpaid interest and principal of outstanding drainage district bonds, payment; agreement. [M.S.A. 11.170(3)]

Sec. 3. Such board shall be authorized to and shall agree, in the resolution provided for in the preceding section, to assume and pay all unpaid interest and principal of all outstanding drainage districts bonds in such county issued in anticipation of the collection of such special drain taxes. Such agreement shall constitute a general obligation of such county. The assumption of such liability shall not exceed constitutional limitations on the total indebtedness of such county.

279.34 Same: assessment, levy and collection, procedure; duty of drain commissioner; new assessment. [M.S.A. 11.170(4)]

Sec. 4. The assessment, levy and collection of the drain taxes in this act provided for shall be governed by the procedure set forth in Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 277.9, inclusive, of the Compiled Laws of 1948, insofar as applicable, and not inconsistent with the provisions of this act. Such installments shall be levied and collected on the general tax rolls. The drain commissioner of any such county shall prepare a new and permanent drain special assessment roll, for each drain, to cover the drain assessments herein provided for and shall perform such other duties in connection with the assessment, levy and collection of such drain taxes as shall be necessary. Such new permanent drain special assessment roll shall supersede, for each drain, on and after the date of the first levy thereunder, any installment or installments to be hereafter levied against property or political subdivisions now assessed in any such county, for each drain, on the permanent drain special assessment roll prepared under the provisions of said Act No. 316 of the Public Acts of 1923, as amended.

279.35 Money credited to general fund. [M.S.A. 11.170(5)]

Sec. 5. In case the county advances money for the payment of such drainage district bonds or drainage taxes, such drain taxes when collected shall be credited to the general fund of the county.

279.36 Lien. [M.S.A. 11.170(6)]

Sec. 6. All drain taxes so extended shall be and remain a lien on the property assessed to the same extent as if no such extension had been made. Nothing in this act contained shall be construed to affect any lien or liens attaching on any land or lands under the provisions of said Act No. 316 of the Public Acts of 1923, as amended.

279.37 Drain taxes assessed at large; defect in proceedings not legalized or waived. [M.S.A. 11.170(7)]

Sec. 7. Nothing in this act contained shall be construed to include that portion of the drain taxes assessed at large against such county or against any state trunk line highway in such county. Nothing in this act contained, or in the proceedings taken under the provisions of this act, shall be construed to legalize or waive any defect or defects in the proceedings in the establishment of any drain project or projects in any such county.

279.38 Scope of act. [M.S.A. 11.170(8)]

Sec. 8. The provisions of this act shall only apply to the property owned by such persons who request the extension authorized under the provisions of this act.

LAKE AND STREAM IMPROVEMENTS

INLAND LAKE LEVEL ACT OF 1961

Act 146, 1961, p. 206; Imd. Eff. May 31

AN ACT to provide for the determination and maintenance of the normal height and level of the waters in inland lakes of this state, for the protection of the public health, safety and welfare and the conservation of the natural resources of this state; to authorize the building and maintenance of dams and embankments to accomplish such purposes; to authorize the acquisition of lands and other property by gift, grant, purchase or condemnation proceedings; to authorize the acceptance of gifts and grants of funds for the construction and maintenance of such dams and embankments; to authorize the raising of money by taxation and by special assessments for the purposes of this act; to prescribe the duties and powers of boards of supervisors, the conservation department of Michigan and county drain commissioners with reference hereto; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

281.61 Inland lake level; short title of act. [M.S.A. 11.300(1)]

Sec. 1. This act shall be known and may be cited as the "inland lake level act of 1961".

281.62 Same; definitions. [M.S.A. 11.300(2)]

Sec. 2. As used in this act:

- (a) Normal water level of any inland lake, natural or artificial, is such a level as, considering the height above sea level, established by government surveys; the high water line as disclosed by old surveys; testimony of old inhabitants; the extent to which drainage and other artificial causes have decreased the natural ground water table of the areas; the extent to which natural causes have either decreased or increased the natural ground water table; and all other pertinent surrounding facts and circumstances, will provide the most benefit to the public and best protect the public health, welfare and safety and which will best preserve the natural resources of the state, and preserve and protect the values of properties developed around said lake as a result of the creation of the normal level.
- (b) Dams mean dams, embankments, dikes, pumps, weirs, locks, gates, tubes, ditches or any other devices or construction to keep and maintain the waters in lakes at normal height and level
- (c) A public inland lake is any lake which is accessible to the public via public owned lands, waters or highways contiguous thereto, or via the bed of a navigable stream and which may be used for navigation, fishing, hunting or other lawful purpose and reasonably capable of supporting a beneficial public interest, except the Great Lakes and connecting waters.
 - (d) A private inland lake is any inland lake other than a public inland lake.
- (e) Department means the county drain commissioner or the county road commission in counties not having a drain commissioner, and if more than 1 county is involved the combined drain commissioners or drain commissioner and road commission in counties having no drain commissioner.
- (f) Interested person is any person who has a record interest in the title to, right of ingress to or reversionary right to a piece or parcel of land which would be affected by a permanent change in the natural or normal mean level of a natural or artificial public or private inland lake, and in all cases, whether having such interest or not, the Michigan department of conservation shall be an interested person.
 - (g) Conservation department is the state conservation department.

281.63 Same; petition; dams, wells, pumps. [M.S.A. 11.300(3)]

Sec. 3. The conservation department or the board of supervisors of any county in which the whole or any part of the waters of any inland lake is situated, may upon its own motion or shall by a petition to the board of 2/3 of the freeholders owning lands abutting the lake, for the protection of the public health, welfare and safety and the conservation of the natural resources of this state, or to preserve property values around a lake, cause to be determined the normal height and level of the waters in the inland lake, and construct and maintain sufficient dams to keep and maintain the water in the lake at its normal height and level. The board may drill wells to supply a lake with additional water in order to raise the level thereof or pump water from some other source, or in case it is necessary to lower the level thereof may arrange for the pumping of water from the lake.

Am. 1062, p. 20, Act 25, Fff. Mar. 28, 1963.

281.64 Same; deposit for preliminary costs. [M.S.A. 11.300(4)]

Sec. 4. The board of supervisors, by resolution, may require a cash deposit sufficient to cover the preliminary costs when a petition is received from freeholders before further proceedings are undertaken pursuant to the petition.

281.65 Same; determination of expediency; method of financing; tentative normal level; special assessment district. [M.S.A. 11.300(5)]

Sec. 5. Whenever the board of supervisors of any county deems it expedient to have determined and established the normal height and level of the waters in any inland lake situated in the county, the board, by resolution, shall determine the expediency of and the method of financing the initial costs and maintenance of any project at a regular or special meeting, and direct the department to determine the tentative normal level of the lake and to establish a special assessment district if required.

The board shall also direct the prosecuting attorney of the county to institute by

proper petition in the circuit court of the county a proceeding for determination.

Lake in 2 or more counties.

When the waters of any inland lake are situated in 2 or more counties, the normal height and level of the waters of such lakes may be determined in the same manner if the boards of supervisors of all counties involved determine it to be expedient and by resolution may direct the department and prosecuting attorney of 1 or more counties to institute proceedings.

HISTORY: Am. 1962, p. 20, Act 25, Eff. Mar. 28, 1963.

281.66 Same; special assessment bonds, lake level orders, procedure. [M.S.A. 11.300(6)1

Sec. 6. The special assessment district may issue bonds or lake level orders in anticipation of special assessments. All proceedings relating to the making, levying and collection of special assessments herein authorized and the issuance of bonds or lake level orders in anticipation of the collection thereof shall conform as near as may be to the proceedings for levying special assessments and issuing special assessment bonds or lake level orders as set forth in Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948.

281.67 Same; tax anticipation notes, issuance. [M.S.A. 11.300(7)]

Sec. 7. The special assessment district may issue tax anticipation notes subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

281.68 Same; institution of proceedings by director of conservation. [M.S.A. 11.300(8)]

Sec. 8. If the conservation department deems it expedient to have the normal height and level of any inland lake determined, the conservation commission shall by resolution authorize the director to institute by proper petition on behalf of the state, in the circuit court of any county in which the lake or any part is situated, a proceeding for determination. The conservation department may likewise join with the board of supervisors of any counties of the state in instituting proceedings for determination as set forth in this act.

281.69 Same; determination of tentative normal level; special assessment district. [M.S.A. 11.300(9)]

Sec. 9. The department, when instructed by resolution of the board of supervisors shall determine the tentative normal level of any private and public inland lakes in its county and establish a special assessment district including therein all parcels of land and political subdivisions which are benefited by the establishment of a lake level. The board of supervisors may delegate to the department such other ministerial duties including preparation, assembling and computation of statistical data for use by the board and the superintending, construction and maintenance of any project under this act.

HISTORY: Am. 1962, p. 20, Act 25, Eff. Mar. 28, 1963.

281.70 Same; hearing, notice, publication, service, determination, departure from normal level. [M.S.A. 11.300(10)]

Sec. 10. Upon receipt of petitions filed under this act the court shall fix a day of hearing, shall direct the prosecuting attorney or the conservation department to give notice thereof by publication in 1 or more newspapers of general circulation in the county, and if the waters of the inland lake are situated in 2 or more counties, in 1 or more newspapers in general circulation in each of the counties in which the lake or any part thereof is situated. The notice shall be published at least once each week for 6 successive weeks prior to the date fixed for the hearing. The court shall direct that copies of the published notice of hearing shall be served by certified mail at least 3 weeks prior to the date set for hearing to each person whose name appears upon the latest city or township tax assessment roll as owning lands within the special assessment district, at the address shown on the roll. If no address appears thereon then no notice need be mailed to the person. The department shall make an affidavit of mailing. The failure to receive any notice properly mailed shall not constitute a jurisdictional defect invalidating proceedings under this act. The prosecuting attorney shall also serve notice on the conservation department.

The court shall hear proofs and allegations of all parties interested and shall consider and review the description of lands within the special assessment district. The court shall determine the level to be established and maintained and may provide for departure from the normal level as may be necessary to accomplish the purposes of this act.

281.71 Same; gifts, purchase, or condemnation by board of supervisors; dam in adjoining county. [M.S.A. 11.300(11)]

Sec. 11. The board of supervisors of any county in which the whole or any portion of the waters of any inland lake are situated may acquire in the name of the county, by gift, grant, purchase or by condemnation proceedings any existing dam which may affect the level of the waters in the lake and any or all sites for dams or interests and rights in land needed or convenient in order to carry out the purposes of this act, and may proceed to construct and maintain any dam that may be determined by the board to be necessary for the purpose of maintaining the normal height and level of the waters of any lake as provided in section 3. A dam may be constructed and maintained in a county next adjoining the county in which the lake or part thereof is located.

281.72 Same; gifts, purchase, or condemnation by department of conservation; construction of dam. [M.S.A. 11.300(12)]

Sec. 12. The conservation department may acquire in the name of the state by gift, grant, purchase or by condemnation proceedings any existing dam which may affect the level of the waters in any inland lake, and may acquire by such means any or all sites

for dams and rights in land needed or convenient in order to carry out the purpose of this act and may proceed to construct and maintain any dam that may be determined by the commission to be necessary for the purpose of maintaining the normal height and level of any inland lake.

281.73 Same; dams in navigable streams. [M.S.A. 11.300(13)]

Sec. 13. Nothing herein contained shall be construed to alter, limit, abridge or amend the provisions of law applicable to the location, construction and maintenance of dams in navigable streams or provide for the determination, establishment or maintenance of the level of waters impounded by such dams.

281.74 Same; condemnation of private property. [M.S.A. 11.300(14)]

Sec. 14. The board of supervisors of any county in this state or the conservation department, within the limitations of the state constitution, may take private property for the uses or purposes specified in this act and to institute and prosecute proceedings for that purpose.

281.75 Same; condemnation procedure. [M.S.A. 11.300(15)]

Sec. 15. Whenever the conservation department or the board of supervisors of any county in the state determines by proper resolution that it is necessary to condemn private property for the purpose of this act the condemnation proceedings shall be commenced and conducted in accordance with the provisions of law applicable to the taking of private property for highway purposes by the state, or chapter 20 or chapter 21 of Act No. 40 of the Public Acts of 1956, as amended, being section 280.461 to section 280.538, inclusive, of the Compiled Laws of 1948.

281.76 Same; gifts, grants in aid to board of supervisors, apportionment. [M.S.A. 11.300(16)]

Sec. 16. The board of supervisors of any county of this state in which is situated, wholly or in part, the waters of any inland lake may receive and accept in the name of the county, gifts or grants in aid, for the purpose of carrying out the provisions of this act, from persons and from other governmental units. If the waters of the inland lake are situated in 2 or more counties, gifts and grants in aid shall be apportioned to the respective counties as the facts may require and as determined by the donor or grantor.

281.76a Same; federal participation contracts; private contracts; approval by conservation department. [M.S.A. 11.300(16a)]

Sec. 16a. The board of supervisors of any county or counties in which the whole or any portion of any inland lake is situated may contract or make agreement with the federal government, or any agency thereof, in connection with a project for the maintenance of the normal lake level, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith. The contract or agreement may include any specific terms required by act of congress or federal regulation as a condition for participation on the part of the federal government. The contract or agreement may provide that any payments made or work done by the public corporation shall relieve it in whole or in part from assessment for the cost of the project. The board of supervisors of any county or counties may contract or make agreement with any private corporation or with any public corporation, or any agency thereof, in respect to any matter connected with the construction or maintenance of such a project. The conservation department shall approve all contracts and agreements before being executed and copies of all plans and specifications shall be filed with and maintained by the conservation department as public records. No such contract or agreement, or anything in consequence thereof, shall in any manner limit any lawful public use of an inland lake, or infringe upon or invade the state's public trust therein.

HISTORY: Add. 1964, p. 38, Act 33, Imd. Eff. May 4.

281.77 Same; gifts, grants in aid to department of conservation. [M.S.A. 11.300(17)]

Sec. 17. The conservation department in carrying out the purposes of this act may receive and accept, on behalf of the state, gifts and grants in aid from persons and other governmental units.

281.78 Same; plans and specifications, bids, work relief project. [M.S.A. 11.300(18)]

Sec. 18. Whenever the board of supervisors causes to be constructed and maintained a dam as may have been determined to be necessary, plans and specifications therefor shall be prepared by a registered engineer under the direction of the board and bids may be advertised for the doing of the work in such manner as the board shall direct by resolution. The contract shall be let to the lowest responsible bidder giving adequate security for the performance of his contract but the board may reserve the right to reject any and all bids. The board may erect and maintain a dam as a work relief project in accordance with the provisions of the law applicable thereto.

281.79 Same; county project, expenses, taxation. [M.S.A. 11.300(19)]

Sec. 19. If the board of supervisors alone conducts the proceedings under this act, the expense of determining the normal height and water level of any public inland lake, the expense of constructing and maintaining any dam, together with the cost and expense of acquiring lands and other property by condemnation necessary thereto, may be assessed, levied and collected upon the taxable property of the county, the same as other general taxes are assessed, levied and collected in such county.

281.80 Same; computation of entire cost, items included. [M.S.A. 11.300(20)]

Sec. 20. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after the appeal has been decided the department shall make a computation of the entire cost of a project under this act, which shall include (1) all the expense of laying out and designating the special assessment districts, which item of expense shall include the entire cost of the survey; (2) the expense of locating, establishing and constructing of any dam or embankments; (3) the fees and expenses of special commissioners; (4) the compensation to be paid the board of review; (5) the cost of construction of bridges and culverts; (6) the contracts for the construction of a dam, or other work to be done on the project; (7) the estimated cost of an appeal if the apportionment made by the department is not sustained; (8) the estimated cost of inspection; (9) the cost of publishing all notices required; (10) all costs of the circuit court; (11) attorney fees for legal services in connection with the project; and (12) interest on bonds for the first year, if bonds are to be issued. The department may add not less than 10% nor more than 15% of the gross sum to cover contingent expenses, and the entire sum so ascertained shall be deemed to be the cost of the project to establish a lake level.

281.81 Same; public lake; fish ladders. [M.S.A. 11.300(21)]

Sec. 21. If the lake is a public lake, the conservation department may join with any board of supervisors in the proceedings thereafter taken and may intervene for the protection and conservation of the natural resources of the state. Whenever the lake is a public inland lake and proceedings are commenced for the purpose of determination and maintenance of the normal height and level thereof by a board of supervisors of any county, the conservation department shall aid and assist in the preparation and presentation of the information, facts and data necessary under the provisions of this act. The conservation department may require the installation of fish ladders or other devices to permit the free passage of fish.

281.82 Same; unauthorized change of level, penalty. [M.S.A. 11.300(22)]

Sec. 22. Any unauthorized person who changes the level of any lake, the level of which has been established under the provisions of this act, is guilty of a misdemeanor and may be fined not to exceed \$1,000.00 or imprisoned not to exceed 1 year in the county jail, or both.

281.83 Same; artificial lakes. [M.S.A. 11.300(23)]

Sec. 23. No normal water level shall be established under this act for an artificial lake created for the purpose of providing a reservoir for a municipal water supply system unless petitioned for by the governing body of the municipality.

281.84 Same; annual inspection; maintenance and repair of project. [M.S.A. 11.300(24)]

Sec. 24. The department of each county shall make an annual inspection of all inland lakes within the county which have a normal level established under this act or any previous act governing lake levels. Whenever inspection discloses the necessity, the department without petition may expend an amount not to exceed \$500.00 for maintenance and repair of each lake level project. If the funds of the department are not sufficient to meet this expenditure the department shall charge the special assessment district therefor according to benefits received.

281.85 Same; repairs in excess of \$500, procedure. [M.S.A. 11.300(25)]

Sec. 25. The procedure for repairs, maintenance, reconstruction, relocating, enlarging or altering of lake level projects established under this act or prior acts in excess of \$500.00, shall be the same as that for the establishment of a normal lake level as set forth in this act.

281.85a Same: artificial lake, permit, special assessment district. [M.S.A. 11.300(25.1)]

Sec. 25a. Whenever any person desires to construct an artificial lake of more than 5 acres or to substantially alter any existing waterway, he shall petition the board of supervisors of each county in which the lake or any portion is to be situated for a permit. The application shall be accompanied by detailed plans and specifications. As a condition of the permit, where a lake is created, the board shall require the applicant to petition for the establishment of a normal lake level under this act. The board shall request the department to establish a special assessment district for future maintenance expenses of such lake level. When the special assessment district has been approved by the court the department shall record the order with the register of deeds.

HISTORY: Add. 1962, p. 448, Act 203, Eff. Mar. 28, 1963.

281.86 Repeal. [M.S.A. 11.300(26)]

Sec. 26. Act No. 377 of the Public Acts of 1921, being sections 281.1 to 281.30 of the Compiled Laws of 1948, Act No. 39 of the Public Acts of 1937, being sections 281.51 to 281.57 of the Compiled Laws of 1948, Act No. 194 of the Public Acts of 1939, as amended, being sections 281.101 to 281.121 of the Compiled Laws of 1948, Act No. 319 of the Public Acts of 1941, being sections 281.151 to 281.157 of the Compiled Laws of 1948 and Act No. 276 of the Public Acts of 1945, as amended, being sections 281.201 to 281.227 of the Compiled Laws of 1948, are hereby repealed, except that actions and petitions to establish and maintain an inland lake level now in process may be concluded under those acts or commenced under this act.

CONSTRUCTION OF DAMS IN STREAMS

Act 184, 1963, p. 272; Eff. Sept. 6.

AN ACT to require the obtaining of approval by the department of conservation before erection of dams in streams or rivers; to provide fees for granting the approval and for the administration of this act; and to provide a penalty for failure to comply with the provisions of this act.

The People of the State of Michigan enact:

281.131 Dams; permits. [M.S.A. 11.421]

Sec. 1. No person shall construct or permit construction of any dam on land owned by him in any stream or river impounding more than 5 acres without first obtaining from the department of conservation a permit approving the plans for such construction. This act shall not apply to public utilities subject to regulation by the Michigan public service commission.

281.132 Same; application for permit; inspection of construction; cost of engineering study. [M.S.A. 11.422]

Sec. 2. The department may require the submission of detailed plans to be approved by it and the proper clearing of the land to be flooded before issuing a permit approving construction of a dam and is authorized to inspect the dam during construction and after completion. Any person making application for a permit shall pay to the department such sum as it may require which is calculated to cover the actual cost of making an engineering study of the plans submitted and of making inspection during and after construction.

281.133 Rules and regulations as to standards of construction. [M.S.A. 11.423]

Sec. 3. The department of conservation is authorized to promulgate rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, governing standards and methods of construction and materials used so as to insure the structural soundness of any dam. The department may cancel any permit issued by it upon failure to comply with the standards adopted by it.

281.134 Board of supervisors; rights as to construction of dams. [M.S.A. 11.424]

Sec. 4. Nothing contained in this act shall abridge the rights of the boards of supervisors of the several counties to approve the construction of any dam as is provided in Act No. 156 of the Public Acts of 1851, as amended, being sections 46.21 and 46.22 of the Compiled Laws of 1948, and in Act No. 146 of the Public Acts of 1961, as amended, being sections 281.61 to 281.86 of the Compiled Laws of 1948, or under such other restrictions as any board of supervisors may lawfully impose.

281.135 Construction without permit, penalty. [M.S.A. 11.425]

Sec. 5. Any person who constructs, or permits to be constructed upon his land, a dam without first obtaining a permit as provided in this act is guilty of a misdemeanor.

SURPLUS WATERS ACT OF 1964

Act 20, 1964, p. 23; Imd. Eff. April 29.

AN ACT to regulate the impoundment and utilization of surplus water; to prescribe the powers and duties of the water resources commission and the several boards of supervisors; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

281.301 Surplus waters act of 1964; short title. [M.S.A. 3.533(21)]

Sec. 1. This act shall be known and may be cited as the "surplus waters act of 1964".

281.302 Same; definitions. [M.S.A. 3.533(22)]

Sec. 2. As used in this act:

- (a) "Board" means the county board of supervisors.
- (b) "Commission" means the water resources commission.
- (c) "Dams" means dams, embankments, dikes, pumps, weirs, locks, gates, tubes, ditches or any other devices or construction to impound or release water.
- (d) "Optimum flow" means that rate and quantity of flow in any stream as determined in accordance with the provisions of this act.
- (e) "Local unit" means any city, village, township, or soil conservation district acting through its governing body.
- (f) "Surplus water" means that water which may be impounded without decreasing the flow of a river or stream below its optimum flow.
- (g) "Plan" means a plan adopted by the board or boards and approved by an order of the commission for the best development, utilization and conservation of the surplus water of the state.

281.303 Request for surveys; reports. [M.S.A. 3.533(23)]

Sec. 3. Any board or group of boards or local unit or units acting singly or in concert may request the commission to undertake a survey of the water in a river basin or watershed located or partially located in such county or counties or in local unit or units of government to determine whether there is surplus water which may be available and if so, how it may be best impounded, utilized and conserved. All studies, surveys and reports made by public and other competent authorities may be utilized by the commission in making such determinations.

281.304 Same; involvement of other boards. [M.S.A. 3.533(24)]

Sec. 4. If it appears to the commission, after a review of the request, that a feasible plan for the impoundment, utilization and conservation of surplus water will involve the water in counties or local units other than those making the request, the commission shall so inform the requestors. If the request were originally made by a local unit only, the board of the county in which the local unit is situated shall be informed of such decision by the commission; and unless the board joins in the request and becomes an originator of the request the commission shall discontinue any further work on the survey. The requesting board may then request the other boards to join in the request so that a complete survey of the surplus water located in all affected counties may be made. Refusal on the part of any of the other boards to join in the request shall be reported to the commission, and if the commission believes that the plan can be effectuated without the cooperation of the refusing boards, it shall enter a decision to that effect in its minutes and the boards requesting the survey may proceed in accordance with the provisions of this act.

281.305 Same; determination of optimum flow; plan for improvement, utilization, and conservation of surplus water; factors; limitations. [M.S.A. 3.533(25)]

Sec. 5. (1) Upon receipt of a request, the commission shall determine the optimum flow for such rivers and streams which may be substantially affected by the impounding and releasing of surplus water and upon its completion shall require the boards to prepare and submit to the commission a plan for the impoundment, best utilization and conservation of the surplus water in accordance with the purposes of this act. The commission shall cooperate and collaborate with the boards in preparation of the plan. The plan shall specify the persons who may make use of the water and the terms, conditions and restrictions under which the water may be used.

(2) In making the determination of optimum flow and in preparing the plan the commission and boards shall consider the following factors:

(a) The range of stream flow variation.

(b) The uses that are being made of the water from the stream or which may be made

in the foreseeable future by any riparian owner.

(c) The stream's waste assimilation capacity, and its practical utility for domestic use, fish and wildlife habitat, recreation, municipal and industrial water supply, commercial and recreational navigation, including portages, public and private utilities and water storage purposes.

(d) Such other factors which appear to the commission necessary adequately to

protect and preserve the rights of riparians on the streams involved.

(3) No plan shall permit the impounding of water when the flow is below the optimum flow. This act shall not be construed to authorize the diversion of water from one watershed to another.

281.306 Public hearing, determination of optimum flow; notices. [M.S.A. 3.533(26)]

Sec. 6. (1) Before making a determination of optimum flow, the commission shall hold a public hearing thereon. The commission shall fix the time and place for the public hearing and shall publish notice thereof. The hearing shall be held not less than 180 days after the date of the first publication. The notice shall be published once during each of 2 separate weeks in at least 1 newspaper of general circulation in each county which requested the survey or later joined therein. Notice shall be given by first class mail to each owner or party in interest of upper and lower riparian property which will be affected by the aforesaid determination and whose name appears upon the most recent local tax assessment records. The notice shall be mailed at least 60 days prior to the date of the hearing at the address shown on the tax records. At the hearing any interested person may appear, present witnesses, and submit evidence.

Order making determination of optimum flow; finality, review, parties.

(2) Upon the completion of the hearing, the commission, if it believes it to be in the furtherance of the public interest, shall enter an order making a determination of optimum flow. The order shall become final 30 days after the mailing of a copy of it by certified mail to those interested persons who appeared and testified or filed a written statement at the hearing. The order shall be subject to review as to questions of law only by a writ of superintending control in an action in the nature of certiorari brought before the order becomes final. Only an owner or party in interest of upper or lower riparian property affected by the order who appeared, testified, or filed a written statement at the hearing, considering himself aggrieved by the order, shall have the right to file a petition for a writ of superintending control in the nature of certiorari in the circuit court for the county of Ingham or in the circuit court for any county which requested the survey or joined therein.

Public hearing, proposed plan, notices, review, order of approval.

(3) After the order of determination has become final, the commission shall hold a public hearing on the proposed plan as submitted by the board. The commission shall fix the time and place for the public hearing and shall publish notice in the manner provided

in subsection (1). The hearing shall be held not less than 30 days after the date of the first publication. Notice shall be given by first class mail to such persons and in such manner as is provided in subsection (1) and shall be mailed at least 30 days prior to the date of the hearing. At the hearing, any interested person may appear, present witnesses and submit evidence. If the commission finds that the proposed plan is in the public interest and in compliance with the provisions of this act, it shall enter an order approving the plan. The order shall become final 30 days after the mailing of a copy of it by certified mail to those interested persons who appeared and testified or filed a written statement at the hearing. The order shall be subject to review as is provided in subsection (2).

281.307 Transmission of plan to boards, adoption, dams, supervision. [M.S.A. 3.533(27)]

Sec. 7. (1) When the order has become final, the commission shall transmit the plan to all the boards involved and if adopted by them, the boards may construct, operate and maintain, either singly or jointly, the dams necessary to impound the surplus waters and to make use or disposition of the surplus water in accordance with the plan. The commission shall maintain supervision over the execution of the plan to the extent it considers necessary for the purpose of protecting the public interest of the state.

Contracts; responsibility for construction.

(2) For the carrying out and effectuation of the plan, the boards, either singly or jointly, may establish such governmental agency or commission as may be necessary, may hire such employees or assistants as may be required and may enter into such contracts with each other and any person as may be necessary to carry out the purposes of this act. The boards constructing, maintaining or operating the dams shall be responsible for the proper construction, maintenance and operation of the dams, and they shall be in full and complete charge thereof and of the impoundments created thereby.

281.308 Gifts, exchange, condemnation by boards; restrictions on financing. [M.S.A. 3.533(28)]

Sec. 8. For the purpose of carrying out the provisions of this act, the boards may receive and accept in the name of the county gifts and grants of land and other property and grants in aid from persons, corporations, the federal government, and any state or federal governmental unit, and may buy, sell, exchange or condemn land and other property or property interests, including the rights of riparian owners to surplus waters, in any county where the land and property may be located. The commission, if direct acceptance by the boards is not possible, may accept the gifts or grants on their behalf. The boards shall not use any moneys of the county for the purpose of carrying out the terms and provisions of this act but shall finance the construction, operation and maintenance of the dams wholly and solely from such gifts or grants in aid that may be received and from such fees and charges as may be made for the use of the surplus water.

281.309 Commission, gifts, grants in aid. [M.S.A. 3.533(29)]

Sec. 9. The commission in carrying out the purposes of this act may receive and accept, on behalf of the state, gifts and grants in aid from the federal government, persons, corporations and other governmental units.

281.310 Use of increased flowage; waste assimilation; rates for usage. [M.S.A. 3.533(30)]

Sec. 10. All increased flowage resulting from operation of a plan shall be available for nonconsumptive use to all riparians. No person shall utilize for waste assimiliation, or divert from the stream any surplus water created by release from dams operated under the provisions of this act except in accordance with the plan. The amount of surplus water released from any impoundment shall be determined by the commission by the use of well recognized engineering computations. The boards may charge users of the surplus water for waste assimilation or consumptive use, except those making an incidental, non-

commercial or recreational use, a reasonable fee or rate for the quantity of water or for the benefits they receive. Those users who contribute to the construction, maintenance or operation of the dams may be charged a reduced fee or no fee, but the fees and rates charged by the boards shall be sufficient at all times to defray all costs, expenses and other financial burdens assumed by the boards in the construction, maintenance and operation of the dams.

281.311 Commission, authority; permits for iron ore beneficiation. [M.S.A. 3.533(31)]

Sec. 11. Nothing in this act shall be construed so as to abridge the authority of the commission as it presently exists. Permits granted by the commission in accordance with Act No. 143 of the Public Acts of 1959, being sections 323,251 to 323,258 of the Compiled Laws of 1948, shall not be affected by this act. The granting of future permits under Act No. 143 of the Public Acts of 1959 shall proceed without regard to anything contained in this act.

281.312 Rules and regulations. [M.S.A. 3.533(32)]

Sec. 12. The commission shall make rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

281.313 Redetermination of optimum flow; modification of plan. [M.S.A. 3.533(33)]

Sec. 13. After a determination or plan has been in effect for 5 years, any riparian owner may petition the commission for a redetermination of the optimum flow or modification of the plan and upon a showing of substantial changes in conditions, the commission shall hold hearings as provided in section 6 and may redetermine the optimum flow or modify the plan.

281.314 Penalty. [M.S.A. 3.533(34)]

Sec. 14. Any person knowingly violating any of the provisions of this act, or any rule or regulation promulgated by the commission, or any written order of the commission in pursuance thereof, is guilty of a misdemeanor.

281.315 Nonapplication of act to river management districts. [M.S.A. 3.533(35)]

Sec. 15. This act shall not apply within the boundaries of any river management district created under the local river management act.

WATERWAYS COMMISSION

Act 320, 1947, p. 533; Imd. Eff. July 1.

AN ACT to create the Michigan state waterways commission, and to prescribe its powers and duties; to provide for the acquisition, construction and maintenance of harbors and channels, and to provide for the granting of concessions; to prescribe the powers and duties of the state and the several political subdivisions thereof; to impose a specific tax on fuel sold or used in producing or generating power for propelling vessels on the navigable waters lying within the boundaries of this state, and to provide for the disposition thereof; to provide for the regulation and control of boating within the boundaries of this state; to provide for state participation in certain federal programs; and to make an appropriation to carry out the provisions of this act.

The People of the State of Michigan enact:

281.501 Waterways commission; definitions. [M.S.A. 3.534(1)]

Sec. 1. As used in this act:

- (a) "Commission" means the Michigan state waterways commission.
- (b) "Director" means the administrative director of the commission.
- (c) "Waterway" means any body of water of whatever size, whether of natural or artificial origin.
- (d) "Navigable water" means any waterway now navigable in fact by vessels, or capable of being made navigable by vessels through artificial improvements, and shall include the structures and facilities created to facilitate navigation.
- (e) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for vessels, including the artificially protective works, the public lands ashore and the structures and facilities provided within the enclosed body of water and ashore for the mooring and servicing of vessels and the servicing of their crews and passengers.
- (f) "Person" includes any individual, firm, partnership, corporation, company, association, joint stock association or body politic, except the United States and this state, and includes any trustee, receiver, assignee or other similar representative thereof.
- (g) "Watercraft" means any contrivance now known or hereafter invented, used or designed for navigation on water, including but not limited to any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat and rowboat, except watercraft used or owned by the United States.
 - (h) "Vessel" means all watercraft except:
 - (1) Watercraft used for commercial fishing;
- (2) Watercraft used by the Sea Scout department of the Boy Scouts of America chiefly for training scouts in seamanship;
- (3) Watercraft owned by this state or any political subdivision of this state or by the federal government; and
- (4) Watercraft, when used in interstate or foreign commerce, and watercraft used or owned by any railroad company or railroad car ferry company.
- (5) Watercraft, when used in trade, including watercraft when used in connection with an activity which constitutes a person's chief business or means of livelihood.
- (i) "Gasoline" means gasoline, casing head or natural gasoline, benzole, benzine and naphtha; also, any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles or watercraft, including any product obtained by blending together any one or more products of petroleum, with or without other products, and regardless of the original character of the petroleum products so blended, if the resultant product so obtained is capable of use for the generation of power for the propulsion of motor vehicles or watercraft, it being the intention that the blending of such products, regardless of their name or characteristics, shall conclusively be presumed to

produce motor fuel, unless such resultant product be entirely incapable for use as such. The term shall not include diesel fuel or commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold or used exclusively for purposes other than as a fuel for motor vehicles or watercraft.

(j) "Secretary of state" means the secretary of state of this state, acting directly or through his duly authorized deputy, investigators, agents and employees.

(k) "Retail fuel dealer" includes any person or persons, both private and municipal, who engage in the business of selling or distributing fuel within the state. HISTORY: Am. 1948, p. 25, Act 16, Imd. Eff. April 29; Am. 1959, p. 346, Act 237, Imd. Eff. Aug. 12; Am. 1960, p. 45, Act 56, Imd. Eff. Apr. 21.

281.502 Waterways commission; members, appointment, oath, expenses, removal; rules; chairman, term; quorum; reports; offices. [M.S.A. 3.534(2)]

Sec. 2. There is hereby created and established a state commission to be known and designated as the Michigan state waterways commission. The commission shall consist of 5 members, who shall be appointed by the governor, with the advice and consent of the senate. Members shall qualify by taking and filing the constitutional oath of office. No member of the commission shall receive any salary for his services as a commissioner, but may be reimbursed for actual and necessary expenses incurred in performance of official duties. The members of the commission may be removed by the governor for inefficiency, neglect of duty, misuse of office, or malfeasance in office, in the manner provided by law for the removal of other public officers for like causes. Vacancies shall be filled for the unexpired term in like manner as original appointments. The commission shall, immediately upon its appointment, organize, adopt a seal, and make, amend and revise such rules and regulations as shall be necessary in the administration of this act. The commission at such organization meeting shall elect from its members a chairman and vice chairman to serve for 1 year and annually thereafter shall elect such officers, each to serve until his successor is appointed and qualified. No action shall be taken by the commission by less than a majority of its members. On or before the fifteenth day of January each year in which a regular session of the legislature is held the commission shall make to the governor a report covering the operations of the commission for the preceding biennial period, and shall make such special reports as shall be requested by the governor. It shall be the duty of the board of state auditors to provide suitable offices and equipment for the use of the commission.

281.503 Same; director, appointment, qualifications, term, compensation, duties; assistants, salaries, expenses. [M.S.A. 3.534(3)

Sec. 3. There is hereby established the office of administrative director of the commission. The director qualified by a record of experience in connection with boating shall be appointed by the commission to serve for an indefinite term, during his efficient, honest and businesslike execution of his duties. He shall receive such compensation as the commission may determine, not in excess of \$8,400.00, and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties. The director shall be charged with the administration of this act in accordance with the policies established by the commission. The director, subject to the approval of the commission, is hereby authorized to employ such assistants, and to make such expenditures as may be necessary in carrying out the provisions of this act. The salaries of all employees, and the necessary expenses while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other state employees are paid.

HISTORY: Am. 1955, p. 315, Act 212, Eff. Oct. 14

281.504 Same; powers and duties. [M.S.A. 3.534(4)]

Sec. 4. The commission shall have and be vested with the following powers and duties: (a) To acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters lying within the boundaries of the state of Michigan.

(b) To acquire, by purchase, lease, gift or condemnation such lands, rights of way and easements necessary for harbors and channels; and the commission shall be considered a state agency under the provisions of Act No. 149 of the Public Acts of 1911, relative to condemnation by state agencies.

- (c) To acquire, by purchase, lease, gift or condemnation suitable areas on shore for disposal of the material from dredging.
- (d) To enter into any contracts or agreements that may be necessary in carrying out the provisions of this act, including agreements to hold and save the United States free from damages due to the construction and maintenance by the United States of such works as the United States shall undertake.
- (e) To provide for the granting of concessions within the boundaries of harbors, so as to furnish the public gas, oil, food and other facilities.
- (f) To represent the state of Michigan and the governor of Michigan in it and his relationships with the chief of engineers, United States army, and his authorized agents for the purposes set forth herein.

NOTE: Act 149, 1911, above referred to, is Compilers' § 213.21 et seq.

281.505 Same; authority of local agencies to enter contracts with commission, inland waterways or channels. [M.S.A. 3.534(5)]

Sec. 5. The several counties, townships, cities and villages of this state, within the jurisdiction of which are situated inland waterways connected with or connecting the waters of the great lakes, or within which channels to nearby inland lakes and streams may be constructed or opened for navigation and shelter of light draft vessels, are hereby authorized by majority vote of their respective legislative bodies, to enter into contracts and agreements with the commission in the accomplishment of the purposes herein set forth.

281.506 Facilities in harbors and connecting waterways; use. [M.S.A. 3.534(6)]

Sec. 6. Facilities in harbors and connecting waterways established under the provisions of this act shall be open to all on equal and reasonable terms.

281.507 Waterways commission; financing of local agencies to obtain United States participation; contracts with war department. [M.S.A. 3.534(7)]

Sec. 7. The commission is hereby authorized to take such action as may be necessary to provide the finances required of local agencies as condition for United States' participation in any project in which the commission is empowered to act and to use any part or all of the appropriation and funds otherwise available to meet such part of the requirement of local participation as the commission may deem proper, and to enter into agreements with any political subdivision of the state in connection with participation with the United States in any project in which the commission is empowered to act, and to provide such adjustments which in the judgment of the commission are deemed to be in the best interest of the state of Michigan.

The commission may enter into any contract or agreement with the war department of the United States, or any other agency or instrumentality of the United States for the dredging of harbors, the erection of breakwaters, piers or any other device for the protection of vessels, and may do any act or enter into any contract or agreement desirable in carrying out the purposes of this act. The commission is further authorized to take such steps as may be necessary to take advantage of any act of congress heretofore or hereafter enacted which may be of assistance in carrying out the purposes of this act.

281.508 Appropriation; state waterways fund, disbursement. [M.S.A. 3.534(8)]

Sec. 8. There is hereby appropriated from the general fund of the state the sum of \$1,000.00 to the commission to be disbursed as provided in this act. Said appropriation shall be credited to the Michigan state waterways fund, which shall constitute a revolving fund. Such fund shall be disbursed by the commission in carrying out the provisions of this act, subject to the accounting laws of the state.

281.509 Tax on marine gasoline; payment. [M.S.A. 3.534(9)]

Sec. 9. (1) Effective July 1, 1959, there is imposed a privilege tax of 6 cents per gallon on all gasoline sold or used in this state in producing or generating power for the operation or propulsion of vessels on the waterways of this state, which tax shall be paid to the secretary of state in the same manner and method and at the same time as now prescribed by law for the collection of a privilege tax now imposed on all gasoline used in producing or generating power for propelling motor vehicles upon the public highways of this state. The privilege tax herein imposed shall be in lieu of the tax levied under Act No. 150 of the Public Acts of 1927, as amended, being sections 207.101 to 207.186 of the Compiled Laws of 1948.

Gasoline, marine use; amount credited to waterways fund.

(2) The legislature hereby finds as a fact that of all the gasoline sold in this state for consumption in internal combustion engines, not less than ½ of 1% thereof is used for marine purposes to propel vessels on the inland and surrounding waterways of this state. The legislature hereby declares that it is the policy of this state to use the funds derived from the sale of marine gasoline to improve boating facilities throughout this state. Effective July 1, 1959, ½ of 1% of all state-imposed taxes collected on the sale of gasoline, fuel, oil, naphthene or any other propellant used in internal combustion engines (except fuel consumed in airplanes or diesel engines) shall be credited to the state waterways fund, to be administered by the commission in accordance with this and other acts.

Secretary of state, duties.

(3) The secretary of state shall annually present to the commission an accurate total of all such gasoline taxes collected and determine the revenue derived therefrom. The secretary of state shall then determine what portion of these revenues were derived from the sale of marine gasoline by multiplying this total by ½ of 1% and shall then credit this amount to the state waterways fund.

Refunds, method of claiming.

(4) The purchaser of gasoline for the operation of vessels excepted from the provisions of this act by section 1 hereof shall be entitled to a refund of tax paid thereon, upon filing a sworn claim with the secretary of state, upon forms prescribed and to be furnished by him, within 6 months from the date of purchase, as shown by the invoice. The retail distributor shall furnish any purchaser with an invoice showing the amount of gasoline purchased, the date thereof, and the total amount of tax paid thereon, and every dealer or distributor shall keep a copy of the invoices issued for a period of 2 years subject to examination by the secretary of state. All claims for refund shall have attached thereto the original invoice received by the purchaser and when approved by the secretary of state such claims shall be paid out of the state waterways fund upon warrant of the auditor general.

False statements, penalty.

(5) Any person who makes a false statement in any claim or invoice presented to the secretary of state, or who presents to the secretary of state any claim or invoice containing any false statement, or who collects or causes to be paid to himself or any other person any refund without being entitled thereto, shall forfeit the full amount of such claim and be guilty of a misdemeanor, punishable by a fine of not less than \$50.00 nor more than \$500.00.

HISTORY: Am. 1948, 1st Ex. Ses., p. 26, Act 16, Imd. Eff. April 29;—Am. 1956, p. 165, Act 78, Eff. Aug. 11;—Am. 1959, p. 347, Act 237, Imd. Eff. Aug. 12.

Sec 9a

HISTORY: Add. 1948, 1st Ex. Ses., p. 27, Act 16, Imd. Eff. April 29;—Rep. 1959, p. 348, Act 237, Imd. Eff. Aug. 12.

281.510 State appropriation deemed advancement, repayment from revenues; use of tax revenues to pay expenses. [M.S.A. 3.534(10)]

Sec. 10. It is the purpose of this act, in providing for harbors and channels, that the appropriation made by the state be considered an advancement, and that the fees, taxes and other revenues received under the provisions of this act, to be credited to the Michigan state waterways fund, shall be applied against said advancement, until all advancements have been fully paid. Thereafter all such fees, taxes and revenues shall be available for continued expansion and development of harbors and connecting waterways: Provided, however, That subject to the approval of the state administrative board, the necessary expense of administration of this act, and any expense necessary to the protection of the harbors, and connecting waterways, constructed or established under the provisions of this act, or any improvement thereto necessary for the proper and adequate protecting of vessels, shall be paid from said fees, taxes and revenues before being credited to said advancements. The state administrative board shall from time to time provide for the transfer of credits to advancements from the Michigan state waterways fund to the general fund, until said advancements shall have been fully paid.

281.511 State acceptance of federal program for construction of harbors of refuge. [M.S.A. 3.534(11)]

Sec. 14. In addition to the other matters contained herein, this act shall constitute prima facie evidence of the acceptance by the state of Michigan of the provisions for state participation in the federal program for construction of certain harbors of refuge within the boundaries of the state of Michigan as provided for in Public Law 14 of the 79th Congress authorized March 2, 1945, pursuant to House Document No. 446 of the 78th Congress.

CHEBOYGAN LOCK AND DAM

Act 187, 1964, p. 259; Eff. Aug. 28.

AN ACT to authorize the state waterways commission to acquire on behalf of the state and manage and control certain properties; and to provide for the disposition of revenues received therefrom.

The People of the State of Michigan enact:

281.521 Cheboygan lock and dam; acquisition by state waterways commission.

Sec. 1. The state waterways commission may purchase and receive from its owners on behalf of the state for a nominal consideration of not to exceed \$1.00 and subject to an agreement that the commission maintain the property and such terms, conditions and stipulations as the commission may approve, the locks, dams, races, structures and related properties, facilities, flowage easements and real estate connected with or a part of the facility now known as the Cheboygan lock and dam, at Cheboygan, Michigan.

281.522 Same; leases, agreements.

Sec. 2. The commission may operate, control, maintain and lease such property and may establish and revise fees and hours of operation for the facility. It may enter into agreements with any individual, company or political subdivision with respect to water rights, water levels, controls, lockage fees and related matters.

281.523 Same; revenues, disposition.

Sec. 3. Revenues received by the commission under this act shall be deposited in the state treasury to the credit of the Michigan state waterways fund and shall be spent only pursuant to appropriations by the legislature.

FERRY DOCK AT STRAITS OF MACKINAC

Act 125, 1050, p. 128; Eff. Jan. 1, 1960.

AN ACT to transfer jurisdiction of certain state properties at the Straits of Mackinac to the state waterways commission; to prescribe the powers and duties of the state waterways commission in regard thereto; and to provide for the disposition of the funds received therefrom.

The People of the State of Michigan enact:

281.531 Ferry docks at Straits of Mackinac; transfer to state waterways commission; description. [M.S.A. 9.1396(1)]

Sec. 1. The jurisdiction and control of the following described lands is hereby transferred from the state highway commissioner to the state waterways commission:

Mackinaw City Dock

Lots 1 to 6, both inclusive, of block 9 and Railroad avenue lying east of the east line of Huron avenue in Wendell's addition to Mackinaw City, Cheboygan county, Michigan.

Oil Storage Area

All that part of the unplatted portion of government lot 1 of section 18, town 39 north, range 3 west, village of Mackinaw City, Cheboygan county. Michigan, and water lots 55 and 56, block B of the plat of "Mackinaw City" as recorded in the office of the register of deeds. Cheboygan county. Michigan, described as:

Beginning at a point on the southerly line of government lot 1 of said section 18 which is 93.7 feet easterly, measured along said southerly lot line from its intersection with the former westerly line of Huron avenue according to the recorded plat of the village of Mackinaw City, said point of beginning being the center line of the existing pavement on Huron avenue; thence northeasterly along said center line at an angle of 103° 03' 15" with the southerly line of said government lot 1, a distance of 418.54 feet to the northerly line of water lot 55 extended westerly; thence easterly at an angle to the right of 77° 02' 25" along said extension and the northerly line of said water lot 55, a distance of 410 feet more or less to the water's edge of the Straits of Mackinac; thence southerly along said water's edge. 408 feet more or less to the southerly line of government lot 1 of said section 18; thence westerly along said southerly line of said government lot 1, a distance of 520 feet more or less, to the point of beginning; reserving an easement for highway purposes in, over and upon that part of the above described property which lies westerly of a line 100 feet easterly of, measured at right angles to, and parallel with the center line of the existing pavement on Huron avenue. Subject to the reservation in favor of the Michigan Central railroad company and the New York Central railroad company as recorded in liber 122, on pages 467-469, office of the register of deeds. Cheboygan county, Michigan.

St. Ignace Dock 1

Lots 6 to 12, both inclusive, of block 2, of assessor's plat No. 5, city of St. Ignace, Mackinac county. Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

St. Ignace Dock 2

Lots 1 and 2, block 2, assessor's plat No. 5, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

Also, that part of private claim 15 located south of assessor's plat No. 5, city of St. Ignace, lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

Also, that part of the north 2/3 of private claim 14 lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

St. Ignace Dock 3

Lots 16 to 28, both inclusive, of block 1 and entire blocks 5, 6, 7, 8, 9 and 10 of Straits subdivision, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof

recorded in liber 2 of plats, on page 39, register's office, Mackinac county, Michigan Also, that part of private claim 2 located south of the south line of Straits subdivision

and east of the east line of State street, city of St. Ignace, Mackinac county, Michigan.

Also, that part of private claim 1 located north of the north line of block 1 of the partition plat of private claim 1 and east of a line 363 feet east of, measured at right angles, and parallel with the centerline of State street, city of St. Ignace, Mackinac county, Michigan

Also, lots 6 to 15, both inclusive, block 1; lots 6 to 19, both inclusive, block 2 and lots 1 to 4, both inclusive, block 5, including the streets and alley adjacent thereto, of the partition plat of private claim 1, city of St. Ignace, Mackinac county, Michigan.

281.532 Same; maintenance; relinquishment. [M.S.A. 9.1396(2)]

Sec. 2. The waterways commission shall maintain in usable condition the ferry docks and approaches thereto; and shall relinquish control of the docks and approaches for the use by the state or any of its agencies if for any reason the Mackinac Straits bridge becomes unusable, or in the event of an emergency declared by the governor.

281.533 Same; leases, concessions; rules and regulations. [M.S.A. 9.1396(3)]

Sec. 3. Subject to the provisions of this act, the state waterways commission may grant leases and concessions for the use of the properties transferred by this act. The commission shall make rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for the use of these properties by all persons without discrimination. The commission shall not grant exclusive use of the docking facilities to any person, but may lease designated areas to particular persons for the operation of commercial enterprises. The commission may make arrangements with other state agencies for use of portions of the properties transferred by this act.

281.534 Same; lease to Mackinaw City, parking. [M.S.A. 9.1396(4)]

Sec. 4. The commission may enter into a lease for a period not to exceed 10 years, with not more than 2 5-year options, with the village of Mackinaw City, whereby the village agrees to operate and maintain the parking facilities located on the property described in section 1 of this act as the Mackinaw City dock under such terms and conditions as may be agreed upon by the commission and the village of Mackinaw City.

281.535 Same; lease to St. Ignace, parking. [M.S.A. 9.1396(5)]

Sec. 5. The commission may enter into a lease for a period not to exceed 10 years, with not more than 2 5-year options, with the city of St. Ignace, whereby the city agrees to operate and maintain the parking facilities located on the property described in section 1 of this act as the St. Ignace docks numbers 1 and 2 under such terms and conditions as may be agreed upon by the commission and the city of St. Ignace.

281.536 Land transferred from Mackinac Island state park commission to state waterways commission; small craft harbor facility. [M.S.A. 9.1396(6)]

Sec. 6. (1) The jurisdiction and control of the following described land is hereby transferred from the Mackinac Island state park commission to the state waterways commission:

A parcel of land beginning at the northwest corner of lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, extending along the south side of Huron street in a westerly direction 530 feet thence to the shoreline of lake Huron in a southerly direction, the distance from Huron street to the shore of lake Huron being approximately 80 feet; thence easterly along the shore of lake Huron to the southwest corner of Lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, and thence northerly approximately 80 feet along the west line of lot No. 88, assessors

plat No. 2, city of Mackinac Island, county of Mackinac, to the point of beginning; also the docks, piers, buildings and appurtenances situated thereon or attached thereto, which are now under the jurisdiction of the Mackinac Island state park commission.

(2) The commission shall operate the properties transferred by this section as a harbor facility for small craft and shall not permit the operation of any commercial enterprise thereon except the sale of marine fuel and other supplies for small craft by the commission.

281.537 Disposition of revenues. [M.S.A. 9.1396(7)]

Sec. 7. All revenues received by the commission under the provisions of this act shall be deposited in the state treasury to the credit of the state waterways fund and shall be expended as appropriated by the legislature.

281.538 Effective date of act. [M.S.A. 9.1396(8)]

Sec. 8. This act shall become effective January 1, 1960.

HARBORS, CHANNELS AND OTHER NAVIGATIONAL FACILITIES

Act 66, 1952, p. 72; Imd. Eff. April 8.

AN ACT to authorize political subdivisions of the state to acquire establish construct, maintain, improve and operate harbors, channels and other navigational facilities; and to authorize ordinances and resolutions.

The People of the State of Michigan enact:

281.541 Definition. [M.S.A. 5.2768(11)]

Sec. 1. The term "political subdivision" used herein is defined to mean any county, city, village, township or port district of this state and any other governmental agency or subdivision, public corporation, authority or district in this state, which is or may be authorized by law to acquire, establish, construct, maintain, improve and operate harbors, channels and other navigational facilities. Whenever used in this act the term political subdivision shall include any combinations of political subdivisions acting jointly.

281.542 Waterways; harbor guards, ordinances, harbor masters. [M.S.A. 5.2768(12)]

Sec. 2. A political subdivision is hereby authorized (a) to adopt and amend all needful rules, regulations and ordinances for the management, government and use of any waterways, harbors, channels or other navigational facilities under its control, either within or without its territorial limits; to employ harbor guards, police or a harbor master with full police powers; to fix penalties for the violation of said rules, regulations and ordinances and enforce such penalties, (b) to adopt and enact rules, regulations and ordinances designed to safeguard the public upon or beyond the limits of harbors, channels, connecting waterways or other navigational facilities within such political subdivision or its political jurisdiction, which rules shall be consistent with and conform to, as nearly as may be possible, the laws of this state, (c) to vest authority for the maintenance, operation and regulation which shall prescribe the duties and powers of such officers, boards or body, and (d) to employ a regular harbor master for the harbors, channels, connecting waterways or navigational facilities under its control, or in cases where a harbor board or body is established the harbor master may be employed by such board or body.

281.543 Same; jurisdiction, contents. [M.S.A. 5.2768(13)]

Sec. 3. All powers, right and authority granted to any political subdivision in this act may be exercised and enjoyed by 2 or more of them, or by this state through its appropriate agencies and 1 or more such political subdivisions acting jointly, either within or without the territorial limits of either of them, and contracts may be entered with each other for the herein provided and authorized joint action.

TRANSFER OF PROPERTIES

Act 53, 1961, p. 52; Imd. Eff. May 20.

AN ACT to transfer jurisdiction of certain state properties at the Straits of Mackinac from the state waterways commission to the state highway commissioner.

The People of the State of Michigan enact:

281.551 Ferry dock at Straits of Mackinac; transfer to state highway commissioner; description.

Sec. 1. The jurisdiction and control of the lands described in this section, following the designation "St. Ignace Dock 3", is hereby transferred from the state waterways commission to the state highway commissioner:

St. Ignace Dock 3

Lots 16 to 28, both inclusive, of block 1 and entire blocks 5, 6, 7, 8, 9 and 10 of Straits subdivision, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 39, register's office, Mackinac county, Michigan.

Also, that part of private claim 2 located south of the south line of Straits subdivision and east of the east line of State street, city of St. Ignace, Mackinac county, Michigan.

Also, that part of private claim 1 located north of the north line of block 1 of the partition plat of private claim 1 and east of a line 363 feet east of, measured at right angles, and parallel with the center line of State street, city of St. Ignace. Mackinac county, Michigan.

Also, lots 6 to 15, both inclusive, block 1; lots 6 to 19, both inclusive, block 2 and lots 1 to 4, both inclusive, block 5, including the streets and alley adjacent thereto, of the partition plat of private claim 1, city of St. Ignace, Mackinac county, Michigan.

BOAT LIVERIES

Act 257, 1952, p. 429; Eff. Sept. 18.

AN ACT to provide for the registration of certain boat liveries; to provide for the adoption of certain minimum safety standards; to provide for the inspection of such boat liveries and their equipment and watercraft, and for the issuance of certificates and passenger capacity tags by the sheriffs of the various counties; to provide for review of a denial of such certificate or finding of passenger capacity; to establish fees to finance such inspection; to define the duties of the Michigan state waterways commission concerning such boat liveries; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

281.561 Boat liveries; definitions. [M.S.A. 18.1251]

Sec. 1. As used in this act, and unless a different meaning appears from the context:

(a) The term "boat livery" means and includes any person who shall hold out to the general public for rent or lease any watercraft for any period of time not in excess of 1 year, except any watercraft subject to inspection or registered under the laws of the United States and except any person renting or leasing any watercraft incidental to the renting or leasing of real property: Provided, That this shall not apply to any person owning less than 3 boats.

(b) The term "watercraft" means and includes any contrivance now known, or hereafter invented, used or designed for navigation on water, whether propelled by muscular power, sail, machinery, steam or electricity.

(c) The term "commission" means the Michigan state waterways commission.

(d) The term "person" means and includes any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, except the United States and the state of Michigan; and includes any agent, trustee, receiver, assignee or other similar representative thereof.

281.562 Same; registration, forms. [M.S.A. 18.1252]

Sec. 2. No person shall operate a boat livery within the boundaries of this state unless he shall first register, upon forms to be furnished by the commission, with the sheriff of the county within which said boat livery is located. All registrants shall furnish such information as shall reasonably be required by the commission. Such registration shall be for a period of 1 year.

281.563 Same; safety standards. [M.S.A. 18.1253]

Sec. 3. The commission shall adopt minimum safety standards for watercraft and other equipment which are rented or leased to the public by boat liveries. Such standards shall be established to insure the safety and well-being of those persons utilizing the facilities of boat liveries. Such standards shall include methods for the determination of the maximum safe passenger capacity of watercraft and shall conform to recognized marine practices. Provided, That such standards shall be published and placed in operation in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948. The commission shall submit such standards to the legislature not later than January 15, 1954, for such use as the legislature shall deem desirable in considering the enactment of statutory safety standards.

281.564 Same; inspection, certificate, passenger capacity tags. [M.S.A. 18.1254]

- Sec. 4. (a) The sheriff of each county, or any peace officer duly authorized by such sheriff, shall annually inspect all equipment offered for lease or rent by all boat liveries located within the boundaries of his county, and shall determine whether said equipment complies with the minimum safety standards established pursuant to the provisions of the preceding section.
- (b) If, after such inspection, it is found that all such equipment complies with the aforesaid standards, the sheriff, or his duly authorized representative, shall issue to the boat livery a certificate to be furnished by the commission. Such certificate shall be prominently displayed and shall expire on the 31st day of December in the year for which it is issued.
- (c) No such certificate shall be issued unless and until all watercraft offered for lease or rent to the public have been inspected and their maximum safe passenger capacity determined in compliance with the minimum safety standards established pursuant to the provisions of the preceding section, and a metal tag indicating such maximum capacity shall have been affixed to such watercraft.
- (d) Such certificates and maximum passenger capacity tags shall be furnished to the sheriff of each county by the commission for a sum not exceeding the cost of such items.

281.565 Same; violations. [M.S.A. 18.1255]

- Sec. 5. (a) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any equipment subject to the provisions of the preceding section without first obtaining such certificate shall be guilty of a misdemeanor.
- (b) Any person operating a boat livery, leasing, renting or permitting the use, leasing or renting of any watercraft subject to the provisions of the preceding section without such maximum passenger capacity tag being affixed thereto shall be guilty of a misdemeanor.
- (c) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any watercraft, subject to the provisions of the preceding section, to more persons than stated on the maximum passenger capacity tag shall be guilty of a misdemeanor.
- (d) Any person who shall rent, lease or operate any watercraft from a boat livery and shall, without the knowledge of such boat livery, permit a number of persons in excess of the figure on the maximum passenger capacity tag to use or occupy such watercraft at one time shall be guilty of a misdemeanor.

281.566 Review of sheriff's and commission's orders. [M.S.A. 18.1256]

- Sec. 6. (a) Any boat livery denied such certificate by the sheriff of any county, or his duly authorized representative, may petition the commission for review of such denial. Such review shall be held at the situs of the boat livery.
- (b) Any boat livery may petition the commission for review of the determination by the sheriff of any county, or his duly authorized representative, of the maximum safe passenger capacity of its watercraft.
- (c) Any person considering himself or itself aggrieved by the decision of the commission under subdivisions (a) and (b) of this section, may, within 10 days after the determination thereof, appeal to, or have the action of the commission reviewed by the circuit court of the county in which the livery is located in the manner provided for the review of the orders of other administrative bodies of this state, and rules of law applicable to such appeals or reviews shall apply.

281.567 Passenger capacity tags, fees. [M.S.A. 18.1257]

Sec. 7. Every boat livery shall pay a fee of 50 cents to the sheriff making such investigation per each maximum passenger capacity tag issued to said boat livery, which fee shall be used to cover the costs of said tags and inspection.

281.568 Penalty. [M.S.A. 18.1258]

Sec. 8. Any person violating any of the provisions of this act shall be guilty of a misdemeanor punishable by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment in the discretion of the court.

281.569 Act inapplicable to certain watercraft. [M.S.A. 18.1259]

Sec. 9. The provisions of this act shall not be operative in any political subdivision which, pursuant to the provisions of Act No. 66 of the Public Acts of 1952, has adopted or may hereafter adopt, rules, regulations or ordinances providing for the inspection and licensing of rented watercraft not subject to inspection under the laws of the United States.

FLOOD CONTROL AND BEACH EROSION

Act 44, 1952, p. 45; Imd. Eff. April 1.

AN ACT to authorize political subdivisions to make expenditures for coastal beach erosion investigations and studies.

The People of the State of Michigan enact:

281.601 Coastal beach erosion or protection, expenditures authorized. [M.S.A. 13.1811]

Sec. 1. Any political subdivision of the state, by resolution of its legislative body adopted by a majority vote of its full membership, is hereby authorized to make expenditures from its general fund, contingent fund, or from any special funds available therefor, to undertake, either independently or in cooperation with any other political subdivision or with any agency of the state and, or federal government, investigative or study functions related to coastal beach erosion or protection.

Act 278, 1952, p. 471; Imd. Eff. June 21.

An act to authorize the township boards of townships, the legislative bodies of incorporated cities and incorporated villages, or the board of county road commissioners of any county when directed by the board of supervisors of the county, to acquire interests in lands and to contract with the federal government, or any agency thereof, with respect to flood control, drainage control and beach erosion control; and to authorize participation of townships, incorporated cities and incorporated villages, and counties in such projects.

The People of the State of Michigan enact:

281.621 Flood, drainage or beach erosion control; lands, acquisition; contract with federal government, terms. [M.S.A. 13.1821]

Sec. 1. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of county road commissioners of any county when directed by the board of supervisors of the county, pursuant to a resolution adopted by a 25 vote of the members thereof, is hereby authorized to acquire any and all interests in lands necessary to any flood control, drainage or beach erosion control project and is hereby authorized to contract with the federal government or any agency thereof, whereby the federal government or such agency will pay the whole or any part of the cost of flood control, drainage control or beach erosion control projects and/or will perform the whole or any part of the work connected therewith, which contract may include any specific terms, including, but not by way of limitation, the holding and saving of the United States free from damages due to the construction works, required by act of congress or federal regulation as a condition for such participation on the part of the federal government.

HISTORY: Am. 1956, p. 174, Act 86, Imd. Eff. April 5. Title Am. 1956, p. 173, Act 86, Imd. Eff. April 5.

281.622 Relieved from assessment. [M.S.A. 13.1822]

Sec. 2. Such a contract may provide that any payments made or work done by the federal government or such agency thereof shall relieve it in whole or in part from assessment for the cost of the project.

281.623 Contract; provisions. [M.S.A. 13.1823]

Sec. 3. Such a contract may provide for the granting, without cost to the United States, of all lands, easements and rights-of-way necessary for the construction of the project, except as otherwise provided by act of congress or federal regulation. Such a contract may also provide for the maintenance and operation of the project after completion in accordance with regulations prescribed by the secretary of the army.

281.624 Expenditures from municipal or county funds. [M.S.A. 13.1824]

Sec. 4. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of supervisors of any county, pursuant to a resolution adopted by a 24 vote of the members thereof, is hereby authorized

in connection with any such contract to make expenditures from its general fund, contingent fund or from any special funds available therefor.

HISTORY Am. 1956, p. 174, Act 86, Ind. Ltf. April 5.

281.625 Assurances to federal government. [M.S.A. 13.1825]

Sec. 5. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of county road commissioners of any county when directed by the board of supervisors of the county, pursuant to a resolution adopted by a ²a vote of the members thereof, is hereby authorized to grant to the United States such assurances as are required by federal flood control acts, and amendments thereto, and by such other federal acts existing, or which may be enacted in the future, authorizing expenditure of federal funds for flood control, drainage or beach erosion control projects.

HISTORY: Am. 1956, p. 174, Act. 86, Imd. Eff. April 5.

281.626 Joint contracts. [M.S.A. 13.1826]

Sec. 6. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of county road commissioners of any county when directed by the board of supervisors of the county, may provide for joint participation and a joint contract or contracts in carrying out the purposes of this act.

HISTORY: Am. 1956, p. 174, Act. 86, Imd. Eff. April 5.

281.627 Contracts; approval by municipal finance commission; borrowings, debt and interest limitations. [M.S.A. 13.1827]

Sec. 7. Such contracts as may be entered into under the provisions of this act must have prior approval of the municipal finance commission as to the financial ability of the incorporated city, incorporated village, township, or county to meet all obligations and liabilities imposed by any such contracts as to cost of lands, easements, rights-of-way, construction and or the maintenance and operation costs of such project or projects. Any incorporated city, incorporated village, township, or the board of county road commissioners of any county when directed by the board of supervisors of the county, authorized to contract with the federal government or any agency thereof under this act may borrow funds from the federal government or any agency thereof for the purpose of carrying out the provisions of this act, which such borrowings shall be subject to the provisions of existing statutes and charter limitations which are applicable to such borrowing: Provided. That section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended, being section 133.2 of the Compiled Laws of 1948, shall not apply to any such borrowings.

HISTORY: Am. 1956, p. 174, Act 86, Ind. Eff. April 5.

281.628 Interest in lands; easement for flood plain; acquisition; declared public purposes. [M.S.A. 13.1828]

Sec. 8. For the accomplishment of the purposes of this act any city, incorporated village, township, or board of county road commissioners, may acquire any interest in land necessary to any flood control, drainage or beach erosion control project, or to preserve flood plains, by purchase, gift, exchange, condemnation or otherwise. If an easement to preserve a flood plain is acquired, the acquiring agency, in any instrument conveying such right or in any eminent domain proceedings instituted therefor, may acquire the further right to use the lands subject to such easement, or any part thereof, for any other public purpose, but only to the extent that such other uses shall be specifically enumerated in said conveyance or eminent domain proceedings. The legislative body of any such city, incorporated village or township, or the board of county road commissioners of any county when directed by the board of supervisors of the county, may institute and prosecute proceedings under the power of eminent domain in accordance with the laws of the state or any provision of any local charter relative to condemnation. In the absence of any other applicable statute townships are expressly authorized to exercise the same powers vested in cities and villages by Act No. 124 of the Public Acts of 1883, being section 213.71 et seq. Compiled Laws of 1948. Two or more adjoining cities, villages or townships are authorized to maintain such proceedings in accordance with the procedure prescribed by Act No. 81 of the Public Acts of 1925, section 123.71 et seq., Compiled Laws of 1948. The purposes contemplated by this act are hereby declared to be public purposes within the meaning of the constitution, state laws and charters relative to the power of eminent

HISTORY: Am. 1956, p. 174, Act 86, Imd. Eff. April 5.

BOATING CONTROL COMMITTEE

Act 245, 1959, p. 372; Imd. Eff. Aug. 13,

An act to promote the safe use of the waters of this state; to provide for the numbering of motorboats; to establish regulations relative to the operation of vessels and motorboats on such waters; to establish regulations relative to the use of waters of this state for boating; to prescribe the duties and responsibilities of owners and operators of vessels and motorboats thereon; to facilitate state and county operations by establishing a boating control committee; to prescribe the powers and duties of the secretary of state, the Michigan state waterways commission, the commissioner of state police and the boating control committee; to provide for the disposition of revenue; and to provide for penalties for violations of this act.

The People of the State of Michigan enact:

281.651 Motorboats; definitions. [M.S.A. 18.1286(1)]

Sec. 1. As used in this act:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water or a steamship or motor vessel primarily engaged in interstate or foreign commerce.

(2) "Motorboat" means any vessel propelled by machinery, whether or not machinery

is the principal source of propulsion.

- (3) "Owner" means a person, other than a lien holder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel, subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security or vendor under a conditional sales contract.
 - (4) "Waters of this state" means any waters within the jurisdiction of this state.
- (5) "Person" means an individual, partnership, firm, corporation, association or other entity.
 - (6) "Operate" means to navigate or otherwise use a motorboat or a vessel.
 - (7) "Commission" means the Michigan state waterways commission.

(8) "Committee" means the boating control committee.

- (9) "Starboard" means right and reference is to the starboard side of a vessel or to the right side of the vessel.
- (10) "Port" means left and reference is to the port side of a vessel or to the left side of the vessel.
- (11) "Political subdivision" as herein used shall be deemed to mean any county, metropolitan authority, city, village, township, charter township or combination thereof in this state. Whenever a body of water is located in more than 1 political subdivision, all of such subdivisions must act individually and jointly to comply with the provisions of this act.
- (12) "Slow no-wake speed" means a very slow speed whereby the wake or wash created by the vessel would be minimal.

HISTORY: Am. 1962, p. 566, Act 240, Eff. Aug. 1;—Am. 1964, p. 405, Act 261, Eff. Aug. 28. Title Am. 1962, p. 566, Act 240, Eff. Aug. 1.

281.651a Boating control committee, membership, sheriffs' representative, chairman, administrative duties. [M.S.A. 18.1286(1a)]

Sec. 1a. A boating control committee, composed of a representative of the Michigan waterways commission, a representative of the secretary of state and a representative of the department of conservation is hereby established and shall perform such duties as are authorized by this act. To represent the sheriffs of this state in an advisory capacity to the committee the Michigan sheriffs, association may designate a representative who shall be authorized to attend meetings of the committee for the purpose of transmitting information, advice and recommendations relative to county problems and assisting in a coordination of state and county effort in the promotion of safe, pleasant and compatible boating.

281.651a

The representatives of the 3 agencies shall be selected from the staff of each agency by its chief authority and designated as that agency's representative. The committee shall select 1 of its members to serve as chairman and the chairmanship shall be alternated between the agencies each year thereafter. Under the direction of the committee the boating section of the department of the secretary of state shall perform clerical, operational and administrative duties for the committee in accordance with rules, regulations, procedures and policies established by the committee and the provisions of this act. The secretary of state shall include in his annual appropriation request such an amount as the committee shall recommend for the conduct of its program including grants to counties.

HISTORY: Add. 1062, p. 567, Act 240, Eff. Aug. 1.

281.651b Declaration of policy; state regulation to avoid multiplicity of local controls. [M.S.A. 18.1286(1b)]

Sec. 1b. The legislature hereby declares it to be the policy of the state of Michigan to retain regulatory control over the operation of vessels exclusively to the legislature in order that the tourist travel and mobility of vessels in this state will not be abridged or interfered with by a multitude of varying local controls and regulations.

HISTORY: Add. 1962, p. 567, Act 240, Eff. Aug. 1.

281.651c Operation of vessels; boating control committee, hearings, local regulations. [M.S.A. 18.1286(1c)]

Sec. 1c. The legislature hereby vests in the committee the authority to regulate the operation of vessels on the waters of this state. The committee, in exercising this delegated authority, shall subject to the provisions of sections 1d and 1e of this act conduct investigations and public hearings to ascertain whether need for special local watercraft control exists. Where special controls are determined necessary to alleviate or correct boating problems, the committee may prescribe regulations to establish vessel speed limits, limit the horsepower of vessel motors, prohibit motor boating, restrict the use of motor boats by day and hour, restrict water skiing and associated activities by day and hour, establish public swimming beaches or areas and direct the marking thereof, establish and designate areas restricted solely to swimming, boating, fishing or water skiing and prescribe any other regulation relating to the use and operation of vessels which will best protect the public safety. The committee, insofar as possible, shall prescribe special local regulations in such a manner as to make the regulations uniform with any other special local regulations established on other waters within this state.

HISTORY: Add. 1962, p. 567, Act 240, Eff. Aug. 1;—Am. 1964, p. 406, Act 261, Eff. Aug. 28.

281.651d Same; certified resolution requesting regulation, hearing, notice, evidence. [M.S.A. 18.1286(1d)]

Sec. 1d. The governing body of any political subdivision which is experiencing boating problems on the waters within the subdivision may request that the committee hold a public hearing to inquire into the need for special local watercraft controls to alleviate the problems. The request shall be in the form of a certified resolution adopted by a majority vote of the governing body of the political subdivision concerned. Upon receipt of a certified resolution the committee shall establish a date for the public hearing in the area and the political subdivision concerned shall arrange suitable quarters for the hearing and issue public notice of the time and place of the hearing in a newspaper of general circulation in the area. The notice shall be published at least once, not less than 15 calendar days before the hearing. At the hearings the committee shall receive testimony from all interested parties on the nature of the boating problems on the waters under consideration.

HISTORY: Add. 1962, p. 567, Act 240, Eff. Aug. 1;-Am. 1964, p. 406, Act 261, Eff. Aug. 28.

281.651e Regulations, adoption, ordinance, repeal, enforcement. 18.1286 (1e) 1

Sec. 1e. Having held the public hearing and completed such investigations as it considers necessary, the committee shall prepare a statement of fact and any prescribed regulations for the relief of boating problems found, which shall be submitted to the governing body of the political subdivision concerned. By majority vote of its elected officials, the governing body shall advise the committee by certified resolution that it approves or disapproves the prescribed regulations. When the body disapproves the prescribed regulations, no further action thereon shall be taken. When the governing body approves the prescribed regulations, a local ordinance shall be enacted in accordance with the provisions of law pertinent to the enactment of ordinances by such governing body, which shall be identical in all respects to the regulations prescribed by the committee. A certified copy of the ordinance shall be forwarded to the committee. The regulations shall then be adopted by the committee in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The governing body of a political subdivision having established such an ordinance may by subsequent majority vote of its elected officials, repeal such ordinance at any time. The committee shall be informed of such action by certified resolution.

The sheriff shall enforce local watercraft ordinances enacted in accordance with the pro-

HISTORY: Add, 1962, p. 568, Act 240, Eff. Aug. 1; Am. 1964, p. 406, Act 261, Eff. Aug. 28.

281.652 Same; operation prohibited if unnumbered, exceptions. [M.S.A. 18.1286(2)]

Sec. 2. No person shall operate or give permission for the operation of any motor-boat on the waters of this state unless the motorboat is numbered in accordance with this act, or in accordance with applicable federal law, or in accordance with a federally-approved numbering system of another state, and unless the certificate of number awarded to the motorboat is in full force and effect, and the identifying number is displayed on each side of the bow of the motorboat as required by this act. Motorboats having a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto, a motorboat from a country other than the United States, or a ship's lifeboat, are not subject to the provisions of this section.

HISTORY: Am. 1962, p. 568, Act 240, Eff. Aug. 1.

281.653 Same; application for number; fee; exceptions; attachment to boat. [M.S.A. 18.1286(3)]

Sec. 3. On or before March 1, 1960, the owner of each motorboat requiring numbering by this state shall file an application for number with the secretary of state on forms provided by him. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of \$2.00. Effective January 1, 1963 this fee shall be \$3.00. Nothing in this act shall require any motorboat having a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto, a motorboat from a country other than the United States temporarily using the waters of this state, a motorboat whose owner is the United States, or a ship's lifeboat to pay the license fee imposed by this act. Any agency of this state or political subdivision of this state shall also be provided registration numbers under this act without payment of the fee prescribed therefor. Upon receipt of the application in approved form, the secretary of state shall enter the same upon the records of his office and issue to the applicant a certificate of number containing the number awarded to the motorboat and the name and address of the owner and such other information as the secretary of state deems necessary. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in bold letters of good proportion, not less than 3 inches in height, reading from left to right as high above the water line as practical and the color of the numbers shall contrast with the color of the hull so as to be distinctly visible and legible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and whenever the motorboat is in use the operator shall present it for inspection upon demand of any peace officer or any representative of the secretary of state or of the boating control committee. HISTORY: Am. 1962, p. 568, Act 240, Eff. Aug. 1.

281.654 Same; foreign, when numbering required. [M.S.A. 18.1286(4)]

Sec. 4. The owner of any motorboat for which a current certificate of number has been awarded pursuant to any federal law or a federally approved numbering system of another state, if such motorboat is operated on the waters of this state in excess of 90 days, shall make application for a certificate of number therefor in the manner prescribed in section 3.

281.655 Same; numbering system. [M.S.A. 18.1286(5)]

Sec. 5. The numbering system adopted pursuant to this act shall be in accordance with the over-all system of numbering established by the secretary of the department in which the United States coast guard operates.

281.656 Same; secretary of state, agents. [M.S.A. 18.1286(6)]

Sec. 6. The secretary of state may award any certificate of number directly or may authorize any person to act as his agent for the awarding thereof. For the purposes of this act, the sheriff's department of each county is designated an agent of the secretary of state.

281.657 Same; records; list of registration numbers. [M.S.A. 18.1286(7)]

Sec. 7. All records of the secretary of state made or kept pursuant to this act shall be public records. Once each year the secretary of state shall furnish to the Michigan state police headquarters and to all sheriffs' departments a compilation of all registration numbers and names of persons to whom such numbers have been assigned. Such list shall be a statewide list.

281.658 Same; certificate of number, expiration. [M.S.A. 18.1286(8)]

Sec. 8. Initial certificates of number awarded pursuant to this act shall expire on December 31, 1962, and thereafter certificates of number and renewals thereof shall expire at the end of each 3-year interval from December 31, 1962, unless sooner cancelled as herein provided.

281.659 Same; notice of change; fee. [M.S.A. 18.1286(9)]

Sec. 9. The owner of any motorboat shall within 15 days notify the secretary of state if the motorboat is destroyed or abandoned is sold or transferred either wholly or in part to another person, or if his address no longer conforms to the address appearing on the certificate of number. The notice shall consist of a surrender of the certificate of number on which the proper information shall be noted in a place to be provided thereon. When the surrender of the certificate is by reason of the motorboat being destroyed or abandoned, the secretary of state shall cancel the certificate and enter such fact in his records and such number may be reassigned by the secretary of state. If the surrender is by reason of a change of address on the part of the owner, the new address shall be recorded by the secretary of state and upon payment of a fee of 50¢ a certificate of number bearing such information will be returned to the owner. The transferee of a motorboat previously registered under this act, within 15 days after acquiring same, shall make application to the secretary of state for transfer to him of the certificate of number issued to the motorboat, giving his name, address and the number of the boat and pay to the secretary of state a fee of \$1.00. Upon receipt of application and fee, the secretary of state shall transfer the certificate of number issued for the motorboat to the new owner. Unless the application is made and fee paid within 15 days, the motorboat shall be deemed to be without certificate of number and no person shall operate the boat until the certificate is issued.

281.660 Same; other numbers prohibited. [M.S.A. 18.1286(10)]

Sec. 10. No number other than the number awarded to a motorboat or granted reciprocity pursuant to this act shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

281.661 Same; duplicate certificate of number. [M.S.A. 18.1286(11)]

Sec. 11. If any certificate of number is lost, mutilated or illegible, the owner of the motorboat may obtain a duplicate of the certificate upon application therefor and the payment of a fee of \$1.00.

281.662 Same; manufacturers and dealers. [M.S.A. 18.1286(12)]

Sec. 12. A manufacturer of motorboats, or a person, firm or corporation engaged in the sale of motorboats, upon application to the secretary of state upon forms prescribed by him, may obtain certificates of number for use in the testing or demonstrating of such motorboat upon payment of \$5.00 for each registration. Certificates of number so issued may be used by the applicant in the testing or demonstrating of motorboats by temporary placement of the numbers assigned by the certificates on the motorboats tested or demonstrated. The temporary placement of numbers shall otherwise be as prescribed by this act.

281.663 Same; revenue; watercraft law enforcement fund, educational programs. [M.S.A. 18.1286(13)]

Sec. 13. The revenue received under this act shall be deposited in the state treasury to the credit of the watercraft law enforcement fund which is hereby created. The legislature shall appropriate from the watercraft law enforcement fund for water safety educational programs and for the administration and enforcement of this act, including grants to counties, but not in excess of revenues received under this act.

HISTORY: Am. 1962, p. 569, Act 240, Eff. Aug. 1.

281.664 Same; grants to counties for enforcement, withdrawal. [M.S.A. 18 1286(14)]

Sec. 14. The board of supervisors of any county desiring to establish a marine enforcement program may request funds equal to twice the county grant from the committee. The board of supervisors shall include as a part of its request a certified resolution appropriating the county funds as well as a complete statement on the extent and type of marine enforcement program to be conducted, including equipment required therefor. The committee shall review the entire request and, if satisfied therewith, shall grant a sum equal to twice the county appropriation but in no case shall the grant to a county be more than \$20,000.00. If the amount appropriated by the legislature for this purpose is insufficient to pay the full amount to which the counties are entitled. the committee shall prorate available appropriations among the various counties in accordance with a formula established by it. The county treasurer shall place the state grant and the county grant in a special restricted account, expenditures from which shall be made solely for the payment of compensation, subsistence and equipment costs of this program. The county treasurer shall make monthly reports to the committee of all expenditures made from this account and, on or before June 30 of each year, shall provide a final accounting to the committee of all moneys expended, the nature of the expenditures, and the balance remaining in the restricted account. Accompanying this final report shall be a check or voucher equal to 66-2/3% of the balance remaining in the restricted account which the committee shall return to the watercraft law enforcement fund. The auditor general annually shall audit this restricted account to assure the proper disposition of these moneys in accordance with the provisions of this act. The secretary of state and the commission shall include in their annual budgets the amounts necessary for the administration and enforcement of this act. The board of supervisors of any county having established a marine enforcement program may by subsequent resolution withdraw from participation in such programs effective on June 30 of any year following by forwarding to the committee a certified copy of the resolution of withdrawal at least 30 days prior to the effective date. HISTORY: Am. 1962, p. 569, Act 240, Eff. Aug. 1.

281.664a Marine enforcement program; water safety educational program. [M.S.A. 18.1286(14a)]

Sec. 14a. The county sheriffs and the committee shall cooperate in the conduct of the marine enforcement program as well as in the related water safety educational programs. The committee, if it finds such to be in the best interest of the state, may prescribe minimal equipment to be placed aboard enforcement watercraft and may purchase such equipment in quantities for distribution to the various counties as a part of the state grant therefor. Such equipment allocations shall be made on the same basis as grants for the marine enforcement program.

HISTORY: Add. 1962, p. 569, Act 240, Eff. Aug. 1.

281.664b Marine enforcement program; demand of peace officer, inspection of equipment; stopping of vessel. [M.S.A. 18.1286(14b)]

Sec. 14b. The operator or person in charge of any vessel being used or operated on the waters of this state, upon demand of any peace officer empowered to enforce the provisions of this act, shall present for inspection any item of equipment required by this act to be carried aboard the vessel. Any of the officers may stop any vessel being used or operated on any of the waters of this state for the purpose of determining that the provisions of this act or any regulation adopted thereunder are being complied with. Upon being hailed by any of the officers the operator of the vessel shall immediately bring it to a stop or maneuver it in such manner as will permit the officer to come along side.

HISTORY: Add. 1964, p. 407, Act 261, Eff. Aug. 28.

281.665 Same; accidents over \$50.00, personal injuries; information, assistance, reports. [M.S.A. 18.1286(15)]

Sec. 15. The operator of any vessel involved in any accident resulting in injury or death to any person or property damage of \$50.00 or more, so far as he can do so without serious danger to his own vessel, or persons aboard, shall give his name, address and identification of his vessel, and the name and address of the owner of the vessel if he is not the operator, to the person struck or the operator or occupants of any vessel collided with and render to any person injured in the accident reasonable assistance, including the transporting of the persons to a physician or surgeon for medical or surgical treatment if it is apparent that treatment is necessary or when requested by the injured person. In any case, the operator, as soon as possible thereafter, shall report such accident to the nearest peace officer, state police post, or the sheriff of the county in which the accident occurred. The officer receiving the report or investigating the accident shall submit a complete report thereof to the commissioner of state police on forms prescribed by him. The accident report form shall not be evidence in any civil or criminal action in any court in this state.

HISTORY: Am. 1962, p. 570, Act 240, Eff. Aug. 1.

281.666 Accidents under \$50; information. [M.S.A. 18.1286(16)]

Sec. 16. The operator of any vessel involved in an accident resulting in damage to property in an amount less than \$50.00 shall stop his vessel and give his name and address and identification of his vessel, and the name and address of the owner of the vessel if he is not the operator, to the operator or occupants of any other vessel involved or to the owner or his agents of any property damaged by the accident.

HISTORY: Am. 1962, p. 570, Act 240, Eff. Aug. L.

281.666a Motorboats; operation by person under influence of intoxicants or drugs. [M.S.A. 18.1286(16a)]

Sec. 16a. It shall be unlawful for any person who is under the influence of intoxicating liquor or narcotic drugs, barbital or any derivation of barbital, or any person who is an habitual user of narcotic drugs, barbital or any derivative of barbital, to operate, propel, or be in actual physical control of any vessel upon any waters of this state. It shall be unlawful for the owner of any vessel or any person having such in charge or in control thereof to knowingly authorize or knowingly permit the same to be propelled or operated by any person who is under the influence of any intoxicating liquor or narcotic drugs, barbital or any derivative of barbital, or any person who is an habitual user of narcotic drugs, barbital or any derivative of barbital.

HISTORY: Add. 1962, p. 570, Act 240, Eff. Aug. 1.

281.666b Same; care in operation, speed, interference with other use of waters. [M.S.A. 18.1286(16b)]

Sec. 16b. Any person operating or propelling a vessel upon the waters of this state shall operate the same in a careful and prudent manner and at such a rate of speed so as not to unreasonably endanger the life or property of any person. No person shall

operate any vessel at a rate of speed greater than will permit him, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. No person shall operate a vessel in a manner so as to unreasonably interfere with the lawful use by others of any waters.

HISTORY: Add. 1962, p. 570, Act 240, Eff. Aug. 1.

281.666c Motorboats; careless operation, towed water skier, sledder, surf-boarder, penalty. [M.S.A. 18.1286(16c)]

Sec. 16c. Any person who operates any motorboat, upon any of the waters of this state, carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless operation of a motorboat and upon conviction shall be punished as provided in section 26 of this act. Any person who navigates, steers or controls himself while being towed on water skis, water sleds, surfboards or similar contrivances, upon any of the waters of this state, carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless operation of water skis, water sleds, surfboards or similar contrivances and upon conviction shall be guilty of a misdemeanor.

HISTORY: Add. 1962, p. 570, Act 240, Eff. Aug. 1;—Am. 1964, p. 407, Act 261, Eff. Aug. 28.

281.666d Same; towing operations, time prohibited. [M.S.A. 18.1286(16d)]

Sec. 16d. No operator of any motorboat shall have in tow or shall otherwise be assisting in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance during the period 1 hour after sunset to 1 hour prior to sunrise. Any person permitting himself to be towed on water skis, water sleds, surfboards or similar contrivances in violation of any of the provisions of this act shall be guilty of a misdemeanor.

HISTORY: Add. 1962, p. 571, Act 240, Eff. Aug. 1.

281.666e Same; towing, observers, rear view mirrors. [M.S.A. 18.1286(16e)]

Sec. 16e. No person shall operate on the waters of this state a motorboat having in tow or otherwise assisting a person on water skis, water sled, aquaplane or other similar contrivance, unless there is in such motorboat, in addition to the operator, at least 1 competent person in a position to observe the progress of the person being towed. The provisions of this section shall not apply to motorboats used by duly constituted ski schools in the giving of instructions, or to motorboats used in sanctioned ski tournaments, competitions, expositions or trials therefor, or to motorboats equipped with not less than a 170 degree wide angle rear view mirror affixed in such a manner as will permit the operator to observe the progress of the person being towed.

HISTORY: Add. 1962, p. 571, Act 240, Eff. Aug. 1.

281.666f Same; safety equipment. [M.S.A. 18.1286(16f)]

Sec. 16f. All motorboats as herein defined, when in operation, shall be provided with safety equipment as follows: 1 coast guard approved life preserver, vest, ring buoy or buoyant cushion for each person on board; 1 coast guard approved B-1 type fire extinguisher on motorboats of closed or semiclosed construction and less than 26 feet in length; at least 2 coast guard approved B-1 type fire extinguishers on motorboats of closed or semiclosed construction and 26 feet to less than 40 feet in length, and at least 3 coast guard approved B-1 type fire extinguishers on motorboats of closed or semiclosed construction and 40 feet to not more than 65 feet in length; 1 hand or power-operated whistle or horn on motorboats 26 to 40 feet in length; 1 power-operated whistle or horn on motorboats 40 to 65 feet in length.

Night operation, lights.

When in operation between sunset and sunrise motorboats powered by less than 11 horsepower shall be equipped with 1 white light, either lantern or flashlight ready at hand, which shall be exhibited in sufficient time as to be visible by and to warn other craft of position and prevent collisions. Motorboats of less than 26 feet in length and powered by 11 or more horsepower when in operation between sunset and sunrise shall be equipped with and exhibit 1 white light aft, visible 2 miles, a combination light forward, red to port and green to starboard, visible 1 mile, and motorboats from 26 feet to 65 feet in length when in operation between sunset and sunrise shall be equipped with and exhibit 1 white light aft, visible 2 miles, a white light forward, visible 2 miles, a red side light to port and a green side light to starboard, visible 1 mile.

HISTORY: Add. 1962, p. 571, Act 240, Eff. Aug. 1;—Am. 1964, p. 407, Act 261, Eff. Aug. 28.

281.667 Same; exchange of information. [M.S.A. 18.1286(17)]

Sec. 17. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the commissioner of state police pursuant to the provisions of this act shall be transmitted to such official or agency of the United States.

281.668 Counterclockwise operation; slow no-wake speed areas. [M.S.A. 18.1286(18)]

Sec. 18. Persons operating vessels on the waters of this state in areas not marked by well defined channels, canals, rivers or stream courses shall operate in a counterclockwise fashion insofar as it is reasonably possible. Such persons shall maintain a distance of 100 feet from any dock, raft, buoyed or occupied bathing area, or vessel moored or at anchor, except when proceeding at a "slow no-wake" speed and except when engaged in picking up or dropping off water skeers, so long as such operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.

HISTORY: Am. 1962, p. 571, Act 240, Eff. Aug. 1;-Am. 1964, p. 408, Act 261, Eff. Aug. 28.

281.668a Marked areas prohibited to vessels. [M.S.A. 18.1286(18a)]

Sec. 18a. No person shall operate a vessel on any of the waters of this state within a lawfully authorized restricted area clearly marked by buoys, beacons or other distinguishing devices as being prohibited to vessels.

HISTORY: Add. 1964, p. 408, Act 261, Eff. Aug. 28.

281.669 Collision courses; angle courses; rules for operation. [M.S.A. 18.1286(19)]

Sec. 19. When vessels are being operated in such a manner so as to make collision imminent or likely, the following rules shall apply:

(a) When 2 vessels are approaching each other head-on, or nearly so, the operator of each shall cause his vessel to pass on the port side of the other.

(b) When overtaking a vessel proceeding in the same direction, the operator of the overtaking vessel, unless it is not feasible to do so, shall pass on the port side of the vessel ahead.

(c) When 2 vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when 1 vessel is overtaking another, the operator of the vessel which has the other on his own port side shall hold his course and speed, and the operator of the vessel which has the other on his own starboard side shall give way to the other by directing his course to starboard so as to cross the stern of the other vessel or, if necessary to do so, shall slacken his speed, stop or reverse.

(d) When a motorboat and a vessel under sail are proceeding in such a manner so as to involve risk of collision, the operator of the motorboat shall give way to the vessel under sail.

(e) When a motorboat and a vessel not propelled by sail or mechanical means are proceeding in such manner as to involve risk of collision, the operator of the motorboat shall give way to said vessel.

(f) When, by any of the rules herein provided, the operator of a vessel is required to give way to the other, the operator of the other vessel shall maintain his direction and speed.

(g) Nothing herein shall operate to relieve the operator of a vessel otherwise privileged by the provisions hereof from the duty to operate with due regard for the safety of all persons using the waters of this state.

HISTORY: Am. 1962, p. 571, Act 240, Eff. Aug. 1.

281.670 Negligent operation; owner's liability, presumption of consent. [M.S.A. 18.1286(20)]

Sec. 20. The owner of a vessel shall be liable for any injury occasioned by the negligent operation of such vessel, whether the negligence consists of a violation of the provisions of the statutes of this state, or in the failure to observe such ordinary care in such operation as the rules of the common law require. The owner shall not be liable unless the vessel is being used with his expressed or implied consent. It shall be presumed that the vessel is being operated with the knowledge and consent of the owner if it is driven at time of the injury by his or her son or daughter, spouse, father, mother, brother, sister or other immediate member of the owner's family.

HISTORY: Add 1962, p. 572, Act 240, Eff. Aug. 1.

281.671 Same; wake or swell, owner's liability for damages. [M.S.A. 18.1286(21)]

Sec. 21. The owner of any vessel operated upon the waters of this state shall be personally responsible for any damage to life or property resulting from a wake or swell created by the negligent operation or propulsion of such vessel, where the vessel is being operated with his consent.

HISTORY: Add. 1962, p. 572, Act 240, Eff. Aug. 1.

281.672 Same; mufflers. [M.S.A. 18.1286(22)]

Sec. 22. Every motorboat being operated on the waters of this state and being propelled by a permanently or temporarily attached motor shall be provided and equipped with a stock factory muffler, underwater exhaust or other modern device capable of adequately muffling the sound of the exhaust of the engine of such motorboat. The mufflers shall be kept closed, and the exhaust or device kept in proper working order by any person operating or in charge of the motorboat at all times when the engine is in operation. The term "capable of adequately muffling the sound of the exhaust of the engine" means the motor's exhaust at all times shall be so muffled or suppressed as not to create excessive or unusual noise.

HISTORY: Add. 1962, p. 572, Act 240, Eff. Aug. 1.

281.673 Buoys or beacons; placement, removal. [M.S.A. 18.1286(23)]

Sec. 23. The committee may authorize through the issuance of a revocable permit the placing of buoys or beacons in the waters of this state to mark obstructions to navigation, to designate bathing beaches, to designate vessel anchorages, or for any other purpose if it will promote safety or navigation. Any person interested in navigation in this state who may desire to place beacons or buoys therein, without expense to the state, may make application to the committee, and submit a map suitable for blueprint reproduction showing the proposed location of such buoys or beacons and their color and meaning. When authorization has been granted, the buovs or beacons shall be placed only in accordance with the terms of the permit and shall be deemed lawfully placed. If, in the judgment of the committee, buoys or beacons authorized by it are found to be an obstruction or menace to navigation or to the free public use of the waters of this state, the committee may revoke the permit authorizing the placement by written notice to the person to whom the permit was issued at his last known address, directing the removal within a specified time. Upon receipt of the notice, the person to whom the notice is directed shall remove the buoys or beacons in accordance with the instructions. In case of failure by the person directed to move the buoys or beacons within the specified time, the committee may cause their removal, and the cost and expense of the removal shall be charged against the person authorized to place the buoys or beacons and shall be recoverable through action in any court of competent iurisdiction

HISTORY: Add. 1962, p. 572, Act 240, Eff. Aug. 1.

281.674 Same; mooring vessels, wilful damage. [M.S.A. 18.1286(24)]

Sec. 24. Any person who shall moor or fasten any vessel to a lawfully placed buoy or beacon, or who shall wilfully damage it, shall be guilty of a misdemeanor, and upon conviction before a court of competent jurisdiction shall be subject to a fine of not more than \$100.00 for each and every offense.

HISTORY: Add. 1962, p. 573, Act 240, Eff. Aug. 1.

281.675 Same; diving suit or mechanical diving device. [M.S.A. 18.1286(25)]

Sec. 25. Any person diving or submerging in any of the waters of this state with the aid of a diving suit or other mechanical diving device shall place a buoy in the water at or near the point of submergence. The buoy shall bear a red flag not less than 14 inches by 16 inches with a 3½ inch white stripe running from 1 upper corner to a diagonal lower corner. The buoy shall be in place only while actual diving operations are in progress.

HISTORY: Add. 1962, p. 573, Act 240, Eff. Aug. 1.

281.676 Violation of act or regulation; penalty, refusal of right to operate. [M.S.A. 18.1286(26)]

Sec. 26. Violations of any of the provisions of, or regulations established in conformity with, this act shall be deemed a misdemeanor, and a political subdivision having adopted any local ordinance in conformity with this act may also provide that any violation thereof shall be deemed a misdemeanor. Any person convicted of reckless operation of a motorboat as defined in section 16c of this act, or of operating a vessel while under the influence of intoxicating liquor or narcotic drugs, in addition to the above penalty, may be refused by the court having jurisdiction of such violation, the right of operating any vessel on any of the waters of this state for a period of not more than 2 years.

HISTORY: Add, 1962, p. 573, Act 240, Eff. Aug. 1;—Am. 1964, p. 408, Act 261, Eff. Aug. 28.

281.677 Negligent homicide; penalty. [M.S.A. 18.1286(27)]

Sec. 27. Any person who, by the operation of any vessel at an immoderate rate of speed or in a careless, reckless or negligent manner, but not wilfully or wantonly, shall cause the death of another, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years or by a fine of not more than \$2,000.00, or by both such fine and imprisonment.

HISTORY: Add. 1962, p. 573, Act 240, Eff. Aug. 1.

281.678 Same; included in charge of manslaughter. [M.S.A. 18.1286(28)]

Sec. 28. The crime of negligent homicide shall be deemed to be included within every crime of manslaughter charged to have been committed in the operation of any vessel, and in any case where a defendant is charged with manslaughter committed in the operation of any vessel, if the jury finds the defendant not guilty of the crime of manslaughter, the jury may render a verdict of negligent homicide.

HISTORY: Add. 1962, p. 573, Act 240, Eff. Aug. 1.

281.679 Nonresident vessel operator; appointment of secretary of state as attorney for service of process. [M.S.A. 18.1286(29)]

Sec. 29. The operation by a nonresident of a vessel upon the waters of this state, or the operation on the waters of this state of a vessel owned by a nonresident if operated with his consent, expressed or implied, shall be deemed equivalent to an appointment by the nonresident of the secretary of state to be his true and lawful attorney, upon whom may be served the summons in any action against him, growing out of any accident or collision in which such nonresident may be involved while operating a vessel on the waters of this state, or in which the vessel may be involved while being so operated. The operation shall be deemed a signification of his agreement that any summons against him which is so served shall have the same legal force and validity as if served on him personally within this state. Service of summons shall be made by leav-

ing a copy thereof with the secretary of state, or his deputy, who shall keep a record of each process and the day and hour of service, and service shall be sufficient service upon such nonresident, if notice of the service and a copy of the summons are forthwith either served upon the defendant personally by the sheriff or constable of the county in which he resides or sent by certified mail by the plaintiff or his attorney to the defendant. If personal service of the notice and copy of summons is had upon the defendant, the officer making the service shall so certify in his return which shall be filed with the court having jurisdiction of the cause. If service is made by certified mail, then the plaintiff or his attorney shall make an affidavit showing that he has made service of the notice and summons upon the defendant by certified mail, and the affiant shall attach thereto a true copy of the summons and notice so served and the return receipt of the defendant and shall file the affidavit and attached papers with the court having jurisdiction of the cause. The court in which the action is pending may order such extension of time as may be necessary to afford the defendant reasonable opportunity to defend the action.

Same; death.

The death of a nonresident shall not operate to revoke the appointment by him of the secretary of state as his true and lawful attorney upon whom may be served the summons in an action against him growing out of any such accident or collision; and in the event of his death, any action growing out of such accident or collision may be commenced or prosecuted against his executor or administrator duly appointed by the state, territory or district of the United States or foreign country in which the non-resident was domiciled at the time of his death. Service of the summons shall be made upon the secretary of state, and personal service of such notice and the copy of the summons be served upon his executor or administrator, in like manner, with the same force and effect as service upon the nonresident during his lifetime.

Same; substitution of personal representative.

Any action or proceeding pending in any court of this state, in which the court shall have obtained jurisdiction of the nonresident pursuant to the provision of this statute, shall not abate by reason of the death of such nonresident, but his executor or administrator duly appointed in the state, territory or district of the United States or foreign country in which he was domiciled at the time of his death, upon the application of the plaintiff in the action and upon such notice as the court may prescribe, shall be brought in and substituted in the place of the decedent, and the action or proceeding shall continue.

Same; traveling expenses as costs.

The court shall include as taxable costs, in addition to other legal costs against the plaintiff in case the defendant prevails in the action, the actual traveling expenses of the defendant from his residence to the place of trial and return, not to exceed the sum of \$100.00.

Application of act.

The provisions of this act shall apply to actions commenced in all courts of this state having civil jurisdiction, including justice courts.

HISTORY: Add. 1962, p. 574, Act 240, Eff. Aug. 1.

281.680 Regattas, boat races, marine parades, tournaments, exhibitions; regulations; applications, authorization. [M.S.A. 18.1286(30)]

Sec. 30. (a) The committee may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. It shall adopt and from time to time may amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Such rules and regulations shall be adopted in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections

24.101 to 24.110 of the Compiled Laws of 1948. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, at least 20 days prior thereto, shall file an application with the committee for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the committee in writing.

Compliance with federal law or regulation; waiver of certain state laws and

(b) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation. The committee is authorized in its sanction permit to waive the provisions of this act contained in sections 2, 16e, 16f, 16g, 18, 19, and 22, as well as the registration provisions contained herein and elsewhere provided by the laws of this state, and the committee may waive any of the regulations issued hereunder by the committee, insofar as the above apply to vessels participating in races or regattas or trials sanctioned by the committee.

HISTORY: Add. 1962, p. 575, Act 240, Eff. Aug. 1.

281.681 Violation of act or regulation; penalty. [M.S.A. 18.1286(31)]

Sec. 31. Any person who violates any of the provisions of, or regulations established in conformity with, this act, unless otherwise specified under this act, is guilty of a misdemeanor.

HISTORY: Add. 1962, p. 575, Act 240, Eff. Aug. 1;-Am. 1964, p. 408, Act. 261, Eff. Aug. 28.

281.682 Construction of act. [M.S.A. 18.1286(32)]

Sec. 32. This act shall not be construed to affect any of the rights of an owner under the laws of the United States.

HISTORY: Add. 1962, p. 575, Act 240, Eff. Aug. 1.

INLAND LAKES AND STREAMS ACT

Act 291, 1965, p. 558; Eff. Mar. 31, 1966.

AN ACT to protect riparian rights and the public trust in navigable inland lakes and streams, including the St. Mary's, St. Clair and Detroit rivers, and to regulate the uses thereof; to provide for coordination between units and agencies of government; to prescribe the powers and duties of the department of conservation, other state agencies, and local units of government; and to provide remedies and penalties for violation of this act.

The People of the State of Michigan enact:

281.731 Inland lakes and streams act, short title. [M.S.A. 11.451]

Sec. 1. This act shall be known and may be cited as the "inland lakes and streams act".

281.732 Definitions. [M.S.A. 11.452]

Sec. 2. As used in this act:

(a) "Lake or stream" or "water" means any navigable inland lake or stream wholly or partly within this state including the St. Mary's, St. Clair and Detroit rivers, but excluding the Great Lakes and the bays and harbors thereof.

- (b) "Ordinary high water mark" means the line between upland and lake or stream bottom land which persists through successive changes in water levels, and below which the presence and action of the water is so common or recurrent as to mark upon the soil a character, distinct from that which occurs on the upland, as to the soil itself, the configuration of the surface of the soil and the vegetation. In case of an inland lake for which a level has been established by law, it means the high established level. In case of permanent removal or abandonment of a dam resulting in the water returning to its natural level it means the natural ordinary high water mark.
- (c) "Bottom land" means the land area of a lake or stream, whether or not covered by water, lying below the ordinary high water mark.
 - (d) "Riparian owner" means a person who has riparian rights.
- (e) "Riparian rights" means those rights associated with the ownership of the bank or shore of a navigable lake or stream.
- (f) "Pier" means a dock, wharf or similar structure extending into or over a lake or stream and providing a means of docking, loading, unloading or servicing of watercraft.
- (g) "Marina" means a facility owned or operated by a person extending into or over a lake or stream and offering service to the public or members of the marina for docking, loading or other servicing of recreational watercraft.
- (h) "Bulkhead line" means a line established pursuant to the provisions of this act beyond which no dredging or filling or construction of any kind shall be allowed without a permit
 - (i) "Local unit of government" means a county, city, village or township.
 - (j) "Department" means the department of conservation.

281.733 Construction of act. [M.S.A. 11.453]

Sec. 3. This act shall not be construed as:

- (a) Conflicting with federal authority over navigable waters.
- (b) Requiring a state permit for disposal of dredge spoil on a federal dumping ground.
- (c) Abridging modifying or superseding the power, duty, or responsibility of any state agency, or of any agency of local government, including, but not limited to, powers of zoning of land within its municipal boundaries.
- (d) Applying to any riparian land owned or leased by a home rule city or port commission.
 - (e) Depriving a riparian owner of riparian rights.

(f) Affecting property rights secured by virtue of a swamp land grant.

(g) Limiting the right of the owner of a dam to control water levels, to dredge for flow maintenance or to maintain the dam and control structures.

(h) Applying to intake or discharge canals or channels owned or controlled for and

used in connection with a public utility or industrial processing.

(i) Applying to copper or iron mining operations, whereby such operations result in the placement, removal, use or processing of copper or iron mineral tailings or copper or iron mineral deposits from such operations being placed in inland waters on bottom lands owned by or under the control of the mining company and only water which may contain a minimal amount of residue as determined by the water resources commission resulting from such placement, removal, use or processing being allowed or permitted to escape into public waters; or applying to the discharge of water from underground iron or copper mining operations subject to a determination by the water resources commission.

(j) Affecting litigation involving the state prior to the effective date of this act.

281.734 High water mark; agreements with riparian owners. [M.S.A. 11.454]
Sec. 4. The department may enter into a written agreement with a riparian owner fixing the location of the ordinary high water mark for his property. In the absence of substantially changed conditions, the agreement shall be conclusive proof of such location in all matters between the state and the riparian owner and his successors in interest.

281.735 Private, noncommercial recreational use of water; placing structures or fills without permit. [M.S.A. 11.455]

Sec. 5. (1) A riparian owner may place structures, or fill, without permit, to facilitate his private, noncommercial recreational use of the water if it does not involve a substantial fill or unreasonably interfere with use of the water by other riparians or the public.

(2) No permit shall be required for any fill, pier or structure existing as of the effec-

tive date of this act.

281.736 Permits required for fills or structures. [M.S.A. 11.456]

Sec. 6. After the effective date of this act a riparian owner, except where a bulkhead line has been established under this act, shall obtain a permit from the department before:

(a) Dredging, placing spoil or other materials, filling, erecting or extending any pier involving fill on bottom land.

(b) Erecting, maintaining or operating a marina on bottom land.

(c) Erecting or extending a commercial or industrial pier on bottom land.

281.737 Application for permit; maps and information. [M.S.A. 11.457]

Sec. 7. An application for a permit shall be filed with the department and shall be accompanied by such maps and information as required by the rules and regulations promulgated under this act.

281.738 Review of application; recommendations; findings; conditional permit. [M.S.A. 11.458]

Sec. 8. Upon receiving an application, the department shall submit it for review to the state health commissioner or local health department designated by him, the water resources commission, the state waterways commission, the local unit of government and the local port commission. Each such entity desiring to submit recommendations shall do so within 30 days after receipt of the request for review. The department after consideration of the application and recommendations shall make a finding and either issue or deny a permit. In case of emergency, the department may issue a conditional permit prior to expiration of the 30-day period.

281.739 Permit, issuance; recognition of riparian rights; preservation or improvement of lake or stream and uses. [M.S.A. 11.459]

Sec. 9. The department shall issue a permit after hearing in accordance with section 14, if requested, if it finds that the structure or project will not adversely affect riparian

rights and is either in the public interest or will not unreasonably impair the public trust. The department shall recognize all riparian rights and consider the preservation or improvement of the lake or stream and its uses, particularly those most prevalent or desirable in the water area, including but not limited to uses by or for agriculture, commerce, fisheries, industries, local government, recreation and wildlife.

281.740 Permit, term; revocation; procedure; permanence of construction under valid permit. [M.S.A. 11.460]

Sec. 10. A permit is effective until revoked for cause but not beyond its term and may be subject to renewal. A permit may be revoked after a hearing for violation of any of its provisions, or any provision of this act, or any rule or regulation issued under this act, if such provision of the act, rule or regulation was in effect at the time of the issuance of the permit. A fill, pier or other structure completed under permit may permanently remain unless otherwise stated in the provisions of the permit.

281.741 Bulk head lines, establishment; jurisdiction in placement of structures and fills. [M.S.A. 11.461]

Sec. 11. The department on its own motion or on application of local units of government may establish a bulkhead line after holding a hearing. Upon acceptance of the bulkhead line by all local units of government, the area landward of the bulkhead line shall thereafter be under their jurisdiction as to the placement of structures and fills in the waters unless jurisdiction is returned to the state. In establishing a bulkhead line, the department shall provide for local requirements but insure that there shall be no unreasonable interference with the public trust in the adjacent waters.

281.742 Dredging in lakes or streams; notice. [M.S.A. 11.462]

Sec. 12. A public agency, local, state or federal, having authority to dredge in a lake or stream shall notify the department, before the work is commenced, as to its purpose and plan of operation including the disposal of spoil.

281.743 Projects for improvement, development and maintenance of lakes or streams; gifts or grants, permits; cooperation with other state and federal agencies. [M.S.A. 11.463]

Sec. 13. The department, after giving due consideration to all aspects of riparian rights, the uses of the water and the public trust therein, may undertake projects for improvement, development and maintenance of lakes or streams for recreation, fisheries, wildlife or public parks. The department may accept gifts and grants in aid of such purposes. It may also issue permits to, or enter into agreements with, or cooperate with riparian owners, lake or stream associations, local units of government and state and federal agencies for the undertaking of such improvements or facilities. Such projects shall not abridge or interfere with riparian rights. The department shall negotiate, coordinate and cooperate with state and federal agencies and authorities on their projects on lakes and streams to the extent necessary to protect riparian rights and rights of the public.

281.744 Rules and regulations; hearings, circuit court actions, limitations; judicial review. [M.S.A. 11.464]

Sec. 14. (1) The department may promulgate and enforce rules and regulations for carrying out the purpose of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(2) If a person is aggrieved by any action or inaction of the department, he may request a formal hearing on the matter involved, which hearing shall thereupon be conducted by the department in accordance with the provisions for contested cases in Act No. 197 of the Public Acts of 1952, as amended. This section shall not be construed as lim-

iting the right of a riparian owner to institute proceedings in any circuit court of the state against any person when necessary to protect his rights.

(3) A determination, action or inaction of the department following such hearing shall be subject to judicial review as provided in Act No. 197 of the Public Acts of 1952, as amended. In the review the department shall have the burden of proving the correctness of any such determination, action or inaction.

281.745 Enforcement of act by civil action; injunction. [M.S.A. 11.465]

Sec. 15. The department may commence a civil action in the circuit court of any county in which a violation occurs to enforce compliance with or restrain a violation of this act or any action contrary to an order of the department denying a permit, or to enjoin the further performance of, or order the removal of, any work or erection of any structure which has been carried out contrary to this act or after denial of a pemit by the department.

281.746 Nondeprivation of riparian owner's rights associated with ownership of frontage. [M.S.A. 11.466]

Sec. 16. This act shall not be construed as depriving a riparian owner of rights associated with his ownership of water frontage. A riparian owner among other rights controls any temporarily or periodically exposed bottom land to the water's edge, wherever it may be at any time, and holds such land secure against trespass in the same manner as his upland, but subject to the public trust to the ordinary high water mark.

281.747 Violation; misdemeanor. [M.S.A. 11.467]

Sec. 17. Any person who is convicted of violating any provision of this act or any rule or regulation promulgated hereunder is guilty of a misdemeanor.

WATERWAYS COMMISSION—PASSENGER VESSELS

Act 228, 1965, p. 389; Eff. Mar. 31, 1966.

AN ACT to regulate vessels carrying passengers for hire; to authorize the state waterways commission to prescribe standards, rules and regulations; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

281.801 Vessels carrying passengers for hire; definitions. [M.S.A. 17.109(1)] As used in this act

"Watercraft" means any contrivance used or designed for navigation on water, including but not limited to any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat or rowboat.

(b) "Vessel" means any watercraft engaged in carrying passengers for hire, directly

or indirectly, irrespective of the method of operation or propulsion, except:

(1) Watercraft which are subject to inspection and which carry a current certificate as an approved vessel carrying passengers for hire under the laws of the United States.

(2) Watercraft which are owned by the United States.

Any vessel under 16 feet in length on which are carried 3 passengers or less.

(c) "Passenger" means every person carried on board a passenger-carrying vessel, except:

The owner or his representative.

The master and the bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their

(3) Any employee of the owner of the vessel engaged in the business of the owner,

Any bona fide guest on board a vessel which is being used exclusively for pleasure (4) purposes.

(d) "Commission" means the state waterways commission.

281.802 Registration; forms, content; period covered. [M.S.A. 17.109(2)]

Sec. 2. No person shall operate a vessel carrying passengers for hire on waters within the boundaries of this state unless he first registers with the commission upon appropriate forms furnished by the commission. All registrants shall furnish such information as shall reasonably be required by the commission. The registration shall be for the period of 1 year.

281.803 Safety standards for vessels and equipment. [M.S.A. 17.109(3)]

Sec. 3. (1) The commission shall adopt minimum safety standards for vessels carrying passengers for hire. The standards shall be established to insure the safety and well-being of those persons utilizing vessels carrying passengers for hire. The standards shall include methods for determining that every vessel is of a structure suitable for carrying passengers, has suitable accommodations for passengers and crew, and is in a condition to warrant the belief that it can be used in navigation with safety to life and property.

(2) The commission shall adopt minimum safety standards pertaining to the equipping and operating of vessels including but not limited to the identification of the vessel, minimum public liability and property damage insurance, fire protection apparatus and materials, pumps, lifeboats, life floats, life rafts, life preservers, ring buoys, buoyant cushions, boilers, motors, engines, steam pressure allowed, unfired pressure vessels, fusible plugs, steering gear, safety valves, whistles, horns, bells, gangways, stairways, woodwork, fuels, including propane gas, gases, explosives and dangerous cargoes.

(3) The commission shall adopt minimum safety standards which shall include methods for the determination of maximum safe passenger capacity of vessels carrying passengers for hire.

(4) The minimum safety standards established herein may include suitable means and tests to determine the sufficiency of the structure and of the equipment of vessels carrying passengers for hire, including but not limited to inclining tests, hammer tests of boilers and hydrostatic tests of boilers.

281.804 Annual safety inspection of vessels and equipment; certificate. $[M.S.A.\ 17.109(4)]$

Sec. 4. (1) The commission, annually or oftener if it has good cause to believe it reasonable, shall inspect or cause to be inspected every vessel carrying passengers for hire and the equipment carried thereon, and shall determine whether the vessel and equipment complies with the minimum safety standards established pursuant to the provisions of section δ .

(2) The commission in the course of its inspection shall ascertain the maximum safe passenger capacity of the vessel determined in compliance with the minimum safety standards

established pursuant to the provisions of section 3

(3) If, after the inspection, it is found that the vessel and equipment complies with the standards, the commission shall issue to the owner of the vessel a certificate to be furnished by the commission. The maximum safe passenger capacity of the vessel shall be indorsed upon the certificate. The certificate shall be prominently displayed on the vessel at all times while being operated upon the waterways of this state.

281.805 Pilots' licenses; standards; period covered. [M.S.A. 17.109(5)]

Sec. 5. The commission shall adopt minimum standards for the licensing of pilots of vessels carrying passengers for hire. No person shall operate any vessel carrying passengers for hire unless he shall have obtained a pilot's license from the commission in compliance with the minimum standards. The license shall be for a period of not to exceed 5 years. The pilot's license shall be available for immediate production at all times during which any vessel which he is operating is carrying passengers for hire.

281.806 Denial or refusal of certificate or license; review of determination of nonsafety capacity of vessels; judicial review. [M.S.A. 17.109(6)]

Sec. 6. (1) Any person denied a certificate or license by the commission may petition the commission for review of the determination of the maximum safe passenger capacity of the vessel.

(2) Any person who owns or operates a vessel carrying passengers for hire may petition the commission for review of the determination of the maximum safe passenger capacity of the vessel

(3) Any person considering himself aggrieved by the decision of the commission under subdivisions (1) and (2) of this section, within 10 days after the determination thereof, may appeal to or have the action of the commission reviewed by the circuit court for the county in which the home port of the vessel is located, or in the circuit court for the county of Wayne, in the manner provided for the review of orders of other administrative bodies of the state, and rules of law applicable to such appeal of reviews shall apply.

281.807 Certificate and license required. [M.S.A. 17.109(7)]

Sec. 7. (1) No person shall operate a vessel carrying passengers for hire without first obtaining a certificate of inspection.

(2) No person shall operate a vessel carrying passengers for hire without first having received a pilot's license.

(3) No person while operating a vessel carrying passengers for hire shall permit more persons to occupy the vessel at 1 time than is stated on the certificate.

281.808 Inspection and pilots' license fees; disposition. [M.S.A. 17.109(8)]

Sec. 8. For each inspection provided under the provisions of this act, the owner of each vessel shall pay the commission an inspection fee according to the following schedule: Vessels with an overall length of 16 feet or less, \$15.00; overall length over 16 feet but less than 21 feet, \$20.00; overall length of 21 feet but less than 26 feet. \$25.00; overall length of 26 feet but less than 31 feet, \$30.00; overall length of 31 feet but less than 36 feet, \$35.00; overall length of 36 feet but less than 41 feet, \$40.00; overall length of 41 feet but less than 45 feet, \$45.00; overall length of 45 feet or more, \$50.00. For each pilot's license issued under the provisions of this act, the person so licensed shall pay to the commission the sum of \$5.00. All of the fees received under this act shall be deposited by the commission in the state treasury for credit to the waterways fund.

281.809 Annual report by commission. [M.S.A. 17.109(9)]

Sec. 9. The commission on or before January 1 of each year shall make a report to the governor containing a detailed statement of the names and numbers of vessels examined and certified pursuant to the provisions of this act, the names and number of vessels to which certificates were refused and stating the reasons for the refusal, the names and number of persons examined and licensed, the names and number of persons to whom licenses were refused and stating the reasons therefor, and such other information as may be deemed necessary and useful, and any additional information which may be requested by the governor.

281.810 Investigation of violations; subpoena power; oaths. [M.S.A. 17.109(10)]

Sec. 10. The commission shall investigate all violations of this act and for such purpose the commission may subpoena witnesses and compel their attendance, and may administer all necessary oaths to any witnesses thus summoned or who shall appear.

281.811 Penalty; attachment of vessel. [M.S.A. 17.109(11)]

Sec. 11. Any person violating any of the provisions of this act or any of the rules and regulations established hereunder is guilty of a misdemeanor and is subject to a fine of not more than \$1,000.00 or by imprisonment in the county jail for not more than 90 days, or both. Where the person is the owner of a vessel operated in violation of this act or the rules and regulations established hereunder, the vessel so operated may be attached and proceeded against to satisfy any fines levies against the owner.

281.812 Rules and regulations. [M.S.A. 17.109(12)]

Sec. 12. To carry out the purposes of this act the commission shall promulgate rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

281.813 Repeal. [M.S.A. 17.109(13)]

Sec. 13. Act No. 113 of the Public Acts of 1909, as amended, being sections 408.251 to 408.287 of the Compiled Laws of 1948, is repealed.

INLAND LAKE IMPROVEMENT ACT OF 1966

Act 345, 1966, p. 642; Imd. Eff. Nov. 26

AN ACT to provide for the improvement of certain inland lakes; to authorize the dredging and removal of undesirable materials from lakes; to authorize the acquisition of lands and other property by gift, grant, purchase or condemnation; to authorize the raising of money by taxation and special assessments for the purpose of this act; to provide for review and appeal; to prescribe the duties and powers of the legislative bodies of local units of government and the department of conservation; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

281.901 Inland lake improvement act; short title. [M.S.A. 11.419(1)]

Sec. 1. This act shall be known and may be cited as the "inland lake improvement act of 1966".

281.902 Definitions. [M.S.A. 11.419(2)]

Sec. 2. As used in this act:

- (a) "Public inland lake" means any lake which is accessible to the public via publicly owned lands or highways contiguous thereto, or via the bed of a stream, except the Great Lakes and connecting waters.
 - (b) "Private inland lake" means any inland lake other than a public inland lake.

(c) "Inland lake" means a public inland lake or a private inland lake.

- (d) "Interested person" means any person who has a record interest in the title to, right of ingress to, or reversionary right to a piece or parcel of land which would be affected by a permanent change in the bottom land of a natural or artificial, public or private inland lake, or adjacent swampland. In all cases, whether having such interest or not, the department of conservation shall be an interested person.
 - (e) "Conservation department" means the state department of conservation.

(f) "Local unit" means a city, village, township or county,

(g) "Local governing body" means the legislative body of any local unit.

(h) Preliminary costs include costs of the engineering feasibility report, economic study,

estimate of total cost and cost of setting up the assessment district.

"Benefit" or "benefits" means advantages resulting from a project to public corporations, the inhabitants of public corporations, the inhabitants of this state and property within public corporations. The term includes benefits which result from elimination of pollution and elimination of flood damage, elimination of water conditions which jeopardize the public health or safety; increase of the value or use of lands and property arising from improving a lake or lakes as a result of the lake project and the improvement or development of a lake for conservation of fish and wildlife and the use, improvement or development of a lake for fishing, wildlife, boating, swimming or any other recreational, agricultural or conservation uses.

281.903 Local governing bodies' powers; lake boards. [M.S.A. 11.419(3)]

Sec. 3. (1) The local governing body of any local unit in which the whole or any part of the waters of any public inland lake is situated, upon its own motion or by petition of 2-3 of the freeholders owning lands abutting the lake, for the protection of the public health, welfare and safety and the conservation of the natural resources of this state, or to preserve property values around a lake, may provide for the improvement of a lake, or adjacent swampland, and may take steps necessary to remove and properly dispose of undesirable accumulated materials from the bottom of the lake or swamp by dredging, ditching, digging or other related work.

(2) Upon receipt of the petition or upon its own motion, the local governing body of a local unit within 60 days shall set up a lake board as provided in section 4 which shall proceed with the necessary steps for improving the lake or to void the proposed project.

281.904 Lake boards, membership and organization; conservation department functions. [M.S.A. 11.419(4)]

Sec. 4. (1) The lake board shall consist of a member of the board of supervisors appointed by the chairman of the board of supervisors of each county affected by the lake improvement project; a representative of each local unit appointed by the legislative body of the local unit, other than a county, affected by the project; the county drain commissioner, or a member of the county road commission in counties not having a drain commissioner; and a representative of the department of conservation. The lake board shall elect a chairman and a secretary, a majority of the members of lake board shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination.

(2) The conservation department upon request of the lake board shall provide whatever technical data it has available and make recommendations in the interests of conservation.

281.905 Private inland lakes petitions for improvements. [M.S.A. 11.419(5)] Sec. 5. Action may be initiated under section 3 relating to any private inland lake only upon petition of 2/3 of the freeholders owning lands abutting the lake.

281.906 Preliminary costs; revolving funds, assessments. [M.S.A. 11.419(6)]

Sec. 6. The county board of supervisors may provide for a revolving fund to pay for the preliminary costs of improvement projects within the county. The preliminary costs shall be assessed to the property owners in the assessment district by the lake board after notice of the hearing is given pursuant to Act No. 162 of the Public Acts of 1962, as amended, and shall be repaid to the fund where the project is not finally constructed.

281.907 Local government resolutions; conflicts with local law. [M.S.A. 11.419(7)]

Sec. 7. (1) Whenever a local governing body, in accordance with section 3, deems it expedient to have a lake improved, it, by resolution, shall direct the lake board to institute proceedings as prescribed in this act.

(2) When the waters of any inland lake are situated in 2 or more local units, the improvement of such lake may be determined jointly in the same manner as provided in this act, if the local governing body of all local units involved determines it to be expedient in accordance with section 3 and by resolution, directs the lake board to institute proceedings as hereinafter prescribed. Where local ordinances and charters conflict, the provisions of this act shall govern.

281,908 Conservation department initiation of improvements. [M.S.A. 11.419(8)]

Sec. 8. If the conservation department deems it expedient, in accordance with section 3, to have a lake dredged or improved, the director may petition the local governing body or governing bodies in which the lake is located for an improvement of the lake. The conservation department may likewise join with the local governing body of any local unit in instituting proceedings for improvements as set forth in this act.

281.909 Assessment districts; lake boards' ministerial duties. [M.S.A. 11.419(9)]

Sec. 9. The lake board, when instructed by resolution of the local governing body, shall determine the scope of the project and establish a special assessment district including therein all parcels of land and local units which will be benefited by the improvement of the lake. The local governing body may delegate to the lake board such other ministerial duties including preparation, assembling and computation of statistical data for use by the board and the superintending, construction and maintenance of any project under this act, as it may be necessary.

281.910 Engineering and economic reports, and cost estimates. [M.S.A. 11.419(10)]

Sec. 10. (1) The lake board shall retain a registered professional engineer to prepare an engineering feasibility report, an economic study report and an estimate of cost. The report

shall include, when applicable, recommendations for normal lake levels and the methods for maintaining such levels.

(2) The engineering feasibility report shall include the methods proposed to carry out the recommended improvements, such as dredging, removal, disposal and disposal areas for undesirable materials from the lake. The report shall include an investigation of the ground water conditions and possible effects on lake levels from removal of bottom materials. A study of existing nutrients and an estimate of possible future conditions shall be included. Estimate of costs of right of way shall be included.

(3) The estimate of costs shall show probable assessments for the project. The economic report shall analyze the existing local tax structure and the effects of the proposed assessments on the local units involved. A copy of the report shall be furnished to each member of the lake board.

281.911 Hearings on reports; determinations of practicability. [M.S.A. 11.419(11)]

Sec. 11. Within 60 days after his receipt of the reports, the chairman shall hold a meeting of the lake board to review the reports required under section 10 and to determine the practicability of the project. The hearing shall be public and notice of the hearing shall be published twice in a newspaper of general circulation in each local unit to be affected. The first publication shall be not less than 20 days prior to the time of the hearing. The board shall determine the practicability of the project within 10 days after the hearing unless it is determined at the hearing that more information is needed before the determination can be made. Upon receipt of such additional information the board shall make its determination forthwith.

281.912 County share in costs of improvement. [M.S.A. 11.419(12)]

Sec. 12. The county board of supervisors may provide up to 25% of the cost of a lake improvement project on any public inland lake.

281.913 Approval of projects and preparation of assessment rolls. [M.S.A. 11.419(13)]

Sec. 13. If the lake board determines the project to be practicable by resolution, it shall determine to proceed with the project and shall approve the plans and estimate of costs as originally presented or as revised, corrected, amended or changed and shall also determine the sufficiency of the petition for the improvement. The resolution shall be published once in a newspaper or general circulation in each local unit to be affected. After the resolution has been published, the sufficiency of the petition shall not thereafter be subject to attack except in an action brought in a court of competent jurisdiction within 30 days after publication. The lake board after finally accepting the special assessment district shall make out an assessment roll based upon benefits to be derived from the proposed lake improvement and it shall direct the assessing official of each local unit to be affected to join in making an assessment roll in which shall be entered and described all the parcels of land to be assessed. with the names of the respective owners thereof, if known, and the total amount to be assessed against each parcel of land and against each local unit to be affected, which amount shall be such relative portion of the whole sum to be levied against all parcels of land and local units in the special assessment district as the benefit to such parcel of land and local unit bears to the total benefit to all parcels of land and local units in the special assessment district. When the assessment roll has been completed, each assessing official shall affix thereto his certificate stating that it was made pursuant to a resolution of the lake board adopted on a specified date, and that in making the assessment roll he has according to his best judgment conformed in all respects to the directions contained in such resolution and the statutes of the state.

281.914 Special assessments; filing, review and confirmation of rolls. [M.S.A. 11.419(14)]

Sec. 14. The assessment roll shall be reported to the lake board by the assessing official of the local unit or units initiating the proceeding and filed in the office of the clerk of each local unit to be affected. Before confirming the assessment roll the lake board shall appoint

a time and place when it will meet and review the same and hear any objections thereto. and shall publish notice of the hearing and the filing of the assessment roll twice prior to the hearing in a newspaper of general circulation in each local unit to be affected, the first publication to be at least 10 days before the hearing. Notice of the hearing shall also be given in accordance with Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211,745 of the Compiled Laws of 1948. The hearing may be adjourned from time to time without further notice. Any person or local unit objecting to the assessment roll shall file his objection thereto in writing with the chairman before the close of the hearing or within such further time as the lake board may grant. After the hearing the lake board may confirm the special assessment roll as reported to it or as amended or corrected by it, or may refer it back to the assessing officials for revision or may annul it and direct a new roll to be made. When a special assessment roll has been confirmed the clerk of each local unit shall indorse thereon the date of the confirmation. After confirmation the special assessment roll and all assessments thereon shall be final and conclusive unless attacked in a court of competent jurisdiction within 30 days after notice of confirmation has been published in the same manner as the notice of hearing.

281.915 Same; installments, interest, penalties. [M.S.A. 11.419(15)]

Sec. 15. Upon the confirmation of the assessment roll, the lake board may provide that the same shall be payable in 1 or more approximately equal annual installments, not exceeding 30. The amount of each installment, if more than 1, need not be extended upon the special assessment roll until after confirmation. The first installment of a special assessment shall be due on or before such time after confirmation as the board shall fix, and the several subsequent installments shall be due at intervals of 12 months from the due date of the first installment or from such other date as the board shall fix. All unpaid installments prior to their transfer to the tax roll of each local unit involved shall bear interest, payable annually on each installment due date, at a rate to be set by the board, not exceeding 6% per annum, from such date as shall be fixed by the board. Future due installments of an assessment against any parcel of land may be paid to the treasurer of each local unit at any time in full. with interest accrued to the due date of the next installment. If any installment of a special assessment is not paid when due, then it shall be deemed to be delinquent and there shall be collected thereon, in addition to interest as above provided, a penalty at the rate of ½ of 1% for each month, or fraction thereof, that it remains unpaid before being reported to the township board for reassessment upon the tax roll.

281.916 Same: liens. [M.S.A. 11.419(16)]

Sec. 16. All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall constitute a lien from the date of confirmation of such roll, upon the respective parcels of land assessed. The lien shall be of the same character and effect as the lien created for taxes in each local unit and shall include accrued interest and penalties. No judgment or decree or any act of the board vacating a special assessment shall destroy or impair the lien upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

281.917 Same; collections. [M.S.A. 11.419(17)]

Sec. 17. When any special assessment roll shall be confirmed the lake board shall direct the assessments made therein to be collected. The clerk of each local unit involved shall thereupon deliver to the treasurer of each local unit the special assessment roll, to which he shall attach his warrant commanding the treasurer to collect the assessments therein in accordance with the directions of the lake board in respect thereto. The warrant shall further require the treasurer on September 1 following the date when any assessments or any part thereof have become due to submit to the lake board a sworn statement setting forth the names of the persons delinquent, if known, a description of the parcels of land upon which there are delinquent assessments and the amount of such delinquency, including accrued interest and penalties computed to September 1 of such year. Upon receiving the special assessment roll and warrant the treasurer shall collect the several amounts assessed therein as they become due.

281.918 Same: reassessments. [M.S.A. 11.419(18)]

Sec. 18. If the treasurer reports as delinquent any assessment or part thereof, the lake board shall certify the same to the assessing official of each local unit, who shall reassess on the annual tax roll of such local unit, of such year in a column headed "special assessments" the sum so delinquent, with interest and penalties to September 1 of such year, and an additional penalty of 6% of the total amount. Thereafter the statutes relating to taxes shall be applicable to such reassessments in each local unit.

281.919 Same; apportionments between divided parcels. [M.S.A. 11.419(19)]

Sec. 19. If any parcel of land is divided after a special assessment thereon has been confirmed and before the collection thereof, the lake board may require the assessment official to apportion the uncollected amounts between the several divisions thereof and the report of the apportionment when confirmed by the lake board shall be conclusive upon all parties. If the interested parties do not agree in writing to the apportionment, then before confirmation, notice of hearing shall be given to all the interested parties, either by personal service or by publication as provided in case of an original assessment roll.

281.920 Same; additional. [M.S.A. 11.419(20)]

Sec. 20. If the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the lake board shall make additional pro-rata assessments to supply the deficiency but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement.

281.921 Same; invalidity and new assessments. [M.S.A. 11.419(21)]

Sec. 21. Whenever, in the opinion of the lake board, any special assessment is invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction adjudges such assessment illegal, the lake board, whether the improvement has been made or not, whether any part of the assessment has been paid or not, may proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment. Whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

281.922 Same; government lands. [M.S.A. 11.419(22)]

Sec. 22. The governing body of any department of the state or any of its political subdivisions, municipalities, school districts, townships, counties, whose lands are exempt by law, by resolution, may agree to pay the special assessments against such lands, in which case the assessment, including all the installments thereof, shall be a valid claim against the local unit.

281.923 Borrowing and bond issues. [M.S.A. 11.419(23)]

Sec. 23. The lake board may borrow money and issue the bonds of the special assessment district therefor in anticipation of the collection of special assessments to defray the cost of any improvement made under this act after the special assessment roll has been confirmed. The bonds shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued and shall bear interest at a rate not exceeding 5% per annum. Collections on special assessments to the extent pledged for the payment of bonds shall be set aside in a special fund for the payment of the bonds. The issuance of special assessment bonds shall be governed by the provisions of the general laws of the state applicable thereto and in accordance with Act No. 202 of 1943, as amended. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements but no special assessment district shall be compelled to pay

the obligation of any other special assessment district. The local governing body may pledge the full faith and credit of a local unit for the prompt payment of the principal of and interest on the bonds as they become due. The pledge of full faith and credit of the local unit shall be included within the total limitation prescribed by section 5 of chapter 5 of Act No. 202 of the Public Acts of 1943, being section 135.5 of the Compiled Laws of 1948. Bonds issued under this act shall be executed by the chairman and secretary of the take board and the interest coupons to be attached thereto shall be executed by the officials causing their facsimile signatures to be affixed thereto.

281.924 Condemnation, law applicable. [M.S.A. 11.419(24)]

Sec. 24. Whenever the lake board determines by proper resolution that it is necessary to condemn private property for the purpose of this act, the condemnation proceedings shall be commenced and conducted in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948.

281.925 Gifts and grants; federal aid. [M.S.A. 11.419(25)]

Sec. 25. (1) The lake board may receive and accept gifts or grants in aid, for the purpose of carrying out the provisions of this act.

(2) The lake board may contract or make agreement with the federal government or any agencies thereof whereby the federal government will pay the whole or any part of the costs of a project or will perform all or any part of the work connected therewith. The contract or agreement may include any specific terms required by act of congress or federal regulation as a condition for participation on the part of the federal government.

281.926 Same; acceptance by conservation department. [M.S.A. 11.419(26)]

Sec. 26. The conservation department in carrying out the purposes of this act may receive and accept, on behalf of the state, gifts and grants in aid.

281.927 Bids and contracts; work relief projects. [M.S.A. 11.419(27)]

Sec. 27. The chairman of the lake board shall advertise for bids. The contract shall be let to the lowest bidder giving adequate security for the performance of his contract, but the lake board shall reserve the right to reject any and all bids. The local governing body may improve a lake as a work relief project in accordance with the provisions of the law applicable thereto.

281.928 Costs of projects, computation. [M.S.A. 11.419(28)]

Sec. 28. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after the appeal has been decided, the lake board shall make a computation of the entire cost of a project under this act, which shall include all preliminary costs and engineering and inspection costs incurred: (1) the fees and expenses of special commissioners; (2) the compensation to be paid the board; (3) the contracts for dredging, or other work to be done on the project; (4) the estimated cost of an appeal if the apportionment made by the lake board is not sustained; (5) the estimated cost of inspection; (6) the cost of publishing all notices required; (7) all costs of the circuit court; (8) attorney fees for legal services in connection with the project; and (9) interest on bonds for the first year, if bonds are to be issued. The lake board may add not less than 10% nor more than 15% of the gross sum to cover contingent expenses, including additional necessary hydrological studies by the department of conservation, and the entire sum so ascertained shall be deemed to be the cost of the lake improvement project.

281.929 Conservation department intervention. [M.S.A. 11.419(29)]

Sec. 29. Whenever a public inland lake is to be improved the conservation department may intervene for the protection and conservation of the natural resources of the state.

281.930 Repeal. [M.S.A. 11.419(30)]

Sec. 30. Act No. 140 of the Public Acts of 1961, being sections 281,701 to 281,718 of the Compiled Laws of 1948, is repealed.

SOIL CONSERVATION DISTRICTS LAW

Act 297, 1937, p. 552; Eff. Oct. 29.

AN ACT to declare the necessity of creating governmental subdivisions of the state to be known as "soil conservation districts," to engage in conserving soil resources and preventing and controlling soil erosion; to establish the state soil conservation committee, and to define its powers and duties; to provide for the creation of soil conservation districts; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers, including the power to acquire property by purchase, gift, and otherwise; to empower such districts to adopt programs and regulations for the discontinuance of the land-use practices contributing to soil wastage and soil erosion, and the adoption and carrying out of soil-conserving land-use practices, and to provide for the enforcement of such programs and regulations; to provide for establishing boards of adjustment in connection with land-use regulations, and to define their functions and powers; to provide for financial assistance to such soil conservation districts, and making an appropriation for that purpose; to declare the effect of this act, and for other purposes.

The People of the State of Michigan enact.

282.1 Short title. [M.S.A. 13.1781]

Sec. 1. Short title. This act may be known and cited as the soil conservation districts law.

. COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

282.2 Declaration of policy. [M.S.A. 13.1782]

Sec. 2. Declaration of policy. It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

HISTORY: Am. 1945, p. 457, Act 280, Eff. Sept. 6.

282.3 Definitions. [M.S.A. 13.1783]

Sec. 3. Definitions. Wherever used or referred to in this act, unless a different meaning clearly appears from the context.

(1) "District" or "soil conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Director" means 1 of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Committee" or "state soil conservation committee" means the agency created in section 4 of this act.

(4) "Petition" means a petition filed under the provisions of sub-section (a) of section 5 of this act for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of section 6 of this act to nominate candidates for the office of director of a soil conservation district.

(6) "State" means the state of Michigan.

(7) "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(8) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(10) "Land occupier" or "occupier of land" includes any person, firm or corporation who shall hold title to, or shall be in possession of, any lands 3 acres or more in extent lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise.

(11) "Due notice" means notice published at least twice, with an interval of at least 7 days between the 2 publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

(12) "Land owner" includes any person, firm, or corporation who shall hold title to or has contracted to purchase any lands lying within a district organized under the provisions of this act.

HISTORY: Am. 1945, p. 457, Act 280, Eff. Sept. 6.

282.4 Soil conservation committee; membership, terms; powers, duties.

[M.S.A. 13.1784]

Sec. 4. State soil conservation committee. (a) There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this act, the state soil conservation committee. The committee shall consist of 7 members. The following shall serve as members of the committee: the dean of agriculture located at Michigan state college. East Lansing, Michigan; the commissioner of agriculture, the director of the state department of conservation, and 4 practical farmers who shall be appointed by the governor from among the directors of the several districts, for terms of 4 years, except in 1945 2 shall be appointed for a term of 2 years and 2 for a term of 4 years; terms to begin July 1 of the 4 year. The committee may invite the secretary of agriculture of the United States of America to appoint 1 person to serve with the above-mentioned members as a member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

(b) The state soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to its chairman, to 1 or more of its members, or to 1 or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the seat of the state government or such place as the committee shall designate, and shall be furnished with the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

(c) The committee shall designate its chairman annually. The 4 farmer members shall hold office, except as provided in section 4(a), for 4 years or until their successor is appointed and qualified. The non-farmer members shall hold office so long as they shall retain the office by virtue of which they shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any

matter within their duties shall be required for its determination. The farmer members of the committee shall receive compensation of \$10.00 per day for their services, when attending committee meetings, and shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The nonfarmer members shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(d) In addition to the duties and powers hereinafter conferred upon the state soil

conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the directors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers

and programs.

(2) To keep the directors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To approve and coordinate the programs of the several soil conservation districts

organized hereunder.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and the state and any of its agencies, in the work of such districts, and to formulate such policies and procedures, as the committee deems necessary relative to the extension of aid in any form from federal or state agencies to such districts.

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the for-

mation of such districts in areas where their organization is desirable.

(6) Members of the committee cannot accept any position created by the committee for which salary is paid, nor may they engage in any business that is promoted by the committee as part of or contributes to the soil conservation program.

HISTORY: Am. 1945, p. 458, Act 280, Eff. Sept. 6.

282.5 Soil conservation districts; creation, procedure. [M.S.A. 13.1785]

Sec. 5. (a) Any 25 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district;

(2) That there is need in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

(4) A request that the state soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than 1 petition is filed covering parts of the same territory, the state soil conservation committee may consolidate all or any such petitions.

Hearing; notice; determination of soil conservation committee; subsequent

petitions.

(b) Within 30 days after such a petition has been filed with the state soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare,

of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act. and such other physical, geographical, and economic factors as are relevant. The territory to be included within such boundaries need not be contiguous. If the committee shall determine after such hearing after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing it shall make and record such determination and shall deny the petition. After 6 months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

Determination of practicability; referendum.

(c) After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county of

and "Against creation of a soil conservation district of the lands below described and lying in the county of and "shall be printed or mimeographed with a square before each proposition and a direction to insert an X mark in the square before 1 or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All occupiers of lands lying within the boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in such referendum.

Expenses of hearings and referenda; regulation; informalities.

(d) The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Referendum, publication; determination of committee.

(e) The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination: Provided, however, That the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such

Directors: governmental subdivision, body corporate; application filed with secretary of state, duties, certificate.

(f) If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint 2 directors to act, with the 3 directors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

The directors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals); (1) that a petition for the creation of the district was filed with the state soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body. corporate and politic, under this act: and that they are the directors; (2) the name and official residence of each of the directors, together with a certification evidencing their right to office; (3) the term of office of each of the directors: (4) the name which is proposed for the district and (5) the location of the principal office of the directors of the district. The application shall be subscribed and sworn to by each of the said directors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the directors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state soil conservation committee, which shall certify, and such statement need contain no detail other than the mere recitals, that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district; that

thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said directors a certificate, under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

Denial of petition; subsequent petitions.

(g) After 6 months shall have expired from the date of entry of a determination by the state soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid and action taken thereon in accordance with the provisions of this act.

Additional territory; petitions; evidence.

(h) Petitions for including additional territory within an existing district may be filed with the state soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

In any suit, action, or proceeding involving the validity or enforcement of, or relating to any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

Boundary line change; petition, hearing, certificate.

Petitions signed by a majority of the members of each of the governing bodies of adjoining soll conservation districts may be filed with the state soil conservation committee many that the boundary line between such districts be changed. The committee shall prescribe the form of such petitions, which shall set out the existing boundary line between useh districts and the proposed new boundary. Within 30 days after such a petition has been filed with the committee, it shall cause due notice to be given of a public hearing upon the proposed change of boundary. All occupiers of lands lying within the land all other interested persons, shall have the right to attend such hearings.

sented at the hearing and upon other available facts and information, whether the operation of the said districts within the proposed new boundaries would be administratively practicable and (easible. In making such determination, the committee shall give due consideration to the declaration of policy and to the standards provided in section 5 of the act, relative to the organization of districts; if after such hearing, the committee determines that the operation of the said districts within the proposed new boundaries will be administratively practicable and feasible, it shall record such determination and notify the chairmen of the governing bodies of the districts of its determination. The said chairmen shall present to the secretary of state an application, signed by them for a certificate evidencing the change of boundary. The application shall be accompanied by a statement by the committee certifying that the boundary between said districts has been changed in accordance with the procedures prescribed in this section, and setting forth the new boundary line. When the application and statement have been filed with the secretary of state, the change of boundary, as determined by the committee, shall be deemed effective and the secretary of state shall issue to the directors of each of the said districts a certificate evidencing such change of boundary.

HISTORY: Am. 1945, p. 459, Act 280, Eff. Sept. 6; Am. 1951, p. 193, Act 160, Imd. Eff. June 6

282.6 Election of 3 directors for each district. [M.S.A. 13.1786]

Sec. 6. Election of 3 directors for each district. Nominating petitions will be filed with the state soil conservation committee to nominate candidates for directors of such district at the time of the hearing. The committee shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the committee, unless it shall be subscribed by 25 or more occupiers of lands lying within the boundaries of such district. Land occupiers may sign more than 1 such nominating petition to nominate more than 1 candidate for director. The committee shall give due notice of an election to be held for the election at the time of the referendum of 3 directors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an X mark in the square before any 3 names to indicate the voter's preference. All occupiers of lands lying within the district shall be eligible to vote in such election. The 3 candidates who shall receive the largest number, respectively of the votes cast in such election, shall be the elected directors for such district. Directors will only assume office if there is a favorable vote for the creation of the district and the district is determined to be practicable and feasible by the state committee. The committee shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof.

HISTORY: Am. 1945, p. 463, Act 280, Eff. Sept. 6.

282.7 Directors, appointment, qualifications, term; chairman; quorum; employees. [M.S.A. 13.1787]

Sec. 7. Appointment, qualifications and tenure of directors. The first governing body of the district shall consist of 5 directors, elected or appointed as provided hereinbefore. The 2 directors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder.

The directors shall designate a chairman annually. (a) The term of office of each director shall be 3 years, except that the director first appointed shall serve for 2 years, the second director appointed shall serve for 1 year, and the directors first elected at the time of the referendum shall serve as follows: the director receiving the highest number of votes shall serve for 3 years, the director receiving the next highest number of votes shall serve for 2 years, and the director receiving the next highest number of votes shall serve for 1 year.

(b) Thereafter, all directors shall be elected at an annual meeting of the land occupiers of the district. The annual meeting shall be held within 30 days following the close of

the fiscal year of the district. The fiscal year of the district shall be determined by the board of directors of the district.

(c) A director shall hold office until his successor has been elected and qualified. Vacancies shall be filled by appointment by the board of directors until the next annual meeting at which time a director will be elected to fill the unexpired or full term.

(d) The state committee shall prescribe rules and regulations governing the conduct of elections at annual meetings.

A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A director shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

The directors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The directors may call upon the attorney general of the state for such legal services as they may require. The directors may delegate to their chairman, to 1 or more directors or to 1 or more agents, or employees such power and duties as they may deem proper. The directors shall furnish to the state soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

The directors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any director may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The directors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Districts previously organized under Act No. 297 of the Public Acts of 1937 shall comply with the provisions of the act as amended, and shall proceed with the election of a new board of directors at an annual meeting of the land occupiers of the district, held within 30 days following the close of the fiscal year as determined by the board of directors of the district. The terms of the new board of directors shall be as follows: The 2 candidates receiving the highest number of votes cast shall hold office for 3 years, the 2 candidates receiving the next highest number of votes cast shall hold office for 2 years, and the candidate receiving the next highest number of votes cast shall hold office for 1 year. Thereafter, directors shall be elected as provided in section 6, paragraph (b).

HISTORY: Am. 1945, p. 464, Act 280, Eff. Sept. 6. NOTE: Act 297, 1937, above referred to, is this act prior to its amendment.

282.8 Powers of districts and directors. [M.S.A. 13.1788]

Sec. 8. Powers of districts and directors.

A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the directors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures: Provided, however, That in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interest in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

(3) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and other measures to achieve purposes listed in declaration of policy, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any land owner, or his designated representative, of lands within the district, in the carrying on of erosion-control and prevention operations within the district, subject to such conditions as the directors may deem necessary to advance the purposes of this act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act.

(6) To make available, on such terms as it shall prescribe, to land owners, or their designated representatives, within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land owners, or their designated representatives, to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion.

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations subject to such policies and procedures as adopted by the state committee, and to accept moneys, gifts, and donations not heretofore provided for;

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter pro-

vided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in moneys, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legis-

lature shall specifically so state.

HISTORY: Am. 1945, p. 465, Act 280, Eff. Sept. 6.

Sec. 9-12.

HISTORY: Rep. 1945, p. 468, Act 280, Eff. Sept. 6. NOTE: Secs. 9-11 provided for land-use regulations. Sec. 12 provided for a board of adjustments.

282.13 Cooperation between districts. [M.S.A. 13.1793]

Sec. 13. Cooperation between districts. The directors of any 2 or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

282.14 State agencies to cooperate. [M.S.A. 13.1794]

Sec. 14. State agencies to cooperate. Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county, or other governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the directors of such districts in the effectuation of programs and operations undertaken by the directors under the provisions of this act. The directors of such districts shall be given free access to enter and perform work upon such publicly owned lands.

HISTORY: Am. 1945, p. 467, Act 280, Eff. Sept. 6.

282.15 Discontinuance of districts; procedure; referendum. [M.S.A. 13.1795]

Sec. 15. Discontinuance of districts. At any time after 5 years after the organization of a district under the provisions of this act, any 25 occupiers of land lying within the boundaries of such district may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within 60 days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the(name of the soil conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the directors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district. the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination: Provided, however, That the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the state soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the directors shall forthwith proceed to terminate the affairs of the district. The directors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury unless the discontinuance be for the purpose of combining with another district, in which case the assets be turned over to the district with which it is to be combined. The directors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the directors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

All contracts theretofore entered into, to which the district or directors are parties, shall remain in force and effect for the period provided in such contracts. The state soil conservation committee shall be substituted for the district or directors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the directors of the district would have had.

The state soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in 2 years.

HISTORY: Am. 1945, p. 467, Act 280, Eff. Sept. 6.

282.15a Soil conservation districts; consolidation, petition, notice of hearing. [M.S.A. 13.1795(1)]

Sec. 15a. Two or more soil conservation districts organized pursuant to the provisions of this act may petition the committee for consolidation of the districts into a single district. The committee shall take no action on the petition unless it is signed by a majority of the directors of each of the districts involved. Within 30 days after receipt of a proper petition, the committee shall cause notice of hearing thereon to be given to the occupiers of land in the area proposed to be included in the consolidated district.

Order of consolidation.

The committee shall determine if consolidation as petitioned for is desirable. If it finds in the affirmative the committee shall issue an order, to be signed by the members thereof, which shall state that the districts are to be consolidated at a date specified in the order, the name of the consolidated district and the boundaries thereof.

Certificate of due organization.

Upon transmission of the order to the secretary of state a certificate of due organization under seal of the state shall issue to the directors of the district as hereinbefore provided. The consolidated district shall have the same powers, duties and functions as other districts organized under the provisions of this act.

Board of directors, term.

The committee shall appoint the first board of directors of the consolidated district one of whom shall be appointed for a term of 1 year, 2 for a term of 2 years and 2 for a term of 3 years. Thereafter directors shall be elected as provided in section 7 of this act.

Transfer of assets, liabilities, records, documents, writings, property.

All assets, liabilities, records, documents, writings or other property of whatever kind of the districts of which the consolidated district is composed shall become the property of the consolidated district and all agreements made by, and obligations of, them shall be binding upon and enforceable by the consolidated district. At the date specified in the committee's order the districts of which the consolidated district is composed shall cease to exist and their powers and duties shall cease thereafter. The consolidated district shall be governed by the provisions of this act.

HISTORY Add. 1963, p. 152, Act 111, Eff. Sept. 6.

282.16 Appropriations. [M.S.A. 13.1796]

Sec. 16. Appropriations. The necessary expenses of the state soil conservation committee and any soil conservation districts shall be made from appropriations hereafter made for such purposes.

Sec. 17. (This was a severing clause section.) HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 18. (This was a construction clause section.) HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

DEPARTMENT OF CONSERVATION

Act 17, 1921, p. 25; Imd. Eff. March 30.

AN ACT to provide for the protection and conservation of the natural resources of the state; to provide and develop facilities for outdoor recreation; to create a conservation department; to define the powers and duties thereof; to provide rules and regulations concerning the use and occupancy of lands and property under its control and penalties for the violation thereof; to provide for the transfer to said department of the powers and duties now vested by law in certain boards, commissions and officers of the state; and for the abolishing of the boards, commissions and offices the powers and duties of which are hereby transferred.

The People of the State of Michigan enact:

299.3 Conservation department; duties; natural resources, outdoor recreation; destruction of timber; reforestation; pollution; protection of game and fish; gifts; acquisition and lease of property. [M.S.A. 13.3]

Sec. 3. It is hereby made the duty of the conservation department to protect and conserve the natural resources of the state of Michigan; to provide and develop facilities for outdoor recreation; to prevent the destruction of timber and other forest growth by fire or otherwise; to promote the reforesting of forest lands belonging to the state; to prevent and guard against the pollution of lakes and streams within the state, and to enforce all laws provided for that purpose with all authority granted by law, and to foster and encourage the protecting and propagation of game and fish. On behalf of the people of the state the commission of conservation may accept gifts and grants of land and other property and shall have authority to buy, sell, exchange or condemn land and other property, for any of the purposes contemplated by this act. The department of conservation may lease lands owned or controlled by it which have been designated for use for recreational purposes, but only to responsible legal units, within this state, of national or state recognized groups devoted principally to development of character and citizenship training and physical fitness of youth, the financial support of which is by voluntary public subscriptions or contributions, and the property of which is exempt from taxation under the laws of this state, and the department of conservation shall also have the authority to lease land in the porcupine mountain state park to third parties for such purposes as it shall consider desirable: Provided, That any lease so made shall contain provisions limiting the purposes for which the land so leased is to be used and a provision authorizing the department of conservation to terminate said lease upon a finding that the land is being used for purposes other than as so limited or contrary to the intent hereof.

HISTORY: Am. 1925, p. 287, Act 201, Eff. Aug. 27;—Am. 1927, p. 813, Act 337, Eff. Sept. 5;—Am. 1952, p. 351, Act 215, Eff. Sept. 18.

FISH AND GAME

Act 230, 1925, p. 336; Eff. Aug. 27.

AN ACT to provide for the better protection and preservation of fish, game and furbearing animals and game birds, protected by the laws of this state; to provide a method by which the taking or killing thereof may be regulated and the open season for the taking or killing thereof suspended or abridged in any designated waters or area of this state; to provide for special fisheries research and regulations therefor; to provide a penalty for the violation thereof, and to repeal Act No. 9 of the Public Acts of 1917, as amended by Act No. 156 of the Public Acts of 1921.

The People of the State of Michigan enact:

300.2 Definitions. [M.S.A. 13.1212]

Sec. 2. The term "waters" as used in this act shall be deemed and construed to mean and include any single or individual inland lake, stream, river, pond or other single or individual inland body of water or any part or portion thereof, and any and all chains, systems or combinations of the same, in any township or townships, county or counties,

within this state and in which any species of fish or water fowl are protected by the laws of this state. The term "area" as used in this act shall be deemed and construed to mean and include the whole of the state and the whole or any designated portion of any township or townships, county or counties within the state.

HISTORY: C.L. 1929, 6139.

300.3 Conservation commission orders protecting fish, game or birds; change in open seasons, contents, filing, publication, seal; fisheries research; experimental game management areas. [M.S.A. 13.1213]

Sec. 3. Whenever said commission of conservation shall determine that any such fish, game or fur-bearing animals or game birds or any kinds or species of the same, are in danger of depletion or extermination and require additional protection in any designated waters or area within the state, said commission may make and promulgate an order suspending or abridging the open season on said fish, game or fur-bearing animals or game birds, or may regulate the taking or killing thereof in said waters or area as in the judgment of said commission may be necessary or expedient for the further protection of said fish, game or fur-bearing animals or game birds in such waters or area, and shall in said order clearly specify the manner and condition relative to the taking or killing of the same. All such orders shall clearly and distinctly describe and set forth the waters or area affected by each said order, and whether the same is applicable to all fish, game or fur-bearing animals or game birds, or only to certain kinds or species designated therein and shall also clearly specify and set forth the length of time, which shall in no case exceed 5 years, which said order shall remain in force and effect. Such order shall be published at least 21 days but not more than 60 days prior to the taking effect thereof, and at least once annually thereafter while in force, in at least 1 newspaper, if any there be, published in each county, the whole or any portion of which is affected by said order, said first mentioned publication to appear at least once in each week for 3 successive weeks. A copy of said order as printed in said paper shall be filed with the clerk of each county. Proof by affidavit of the newspaper publication shall be filed with the commission, and a copy of said order, so long as it shall remain in force and effect, shall be included and printed in the authorized biennial compilation of the Michigan fish and game laws: Provided, That the original of all such orders on file in the Lansing office of the department of conservation shall be under the seal of the department of conservation and shall bear the signatures of the chairman and secretary of said commission and shall be countersigned by the director of conservation: Provided further. That the conservation commission shall have authority to establish the seasons, size limits, creel limits and methods of taking fish in certain designated inland lakes not to exceed 20 in number at any one time and in certain designated streams or portions of streams not to exceed 10 in number at any one time for the purpose of fisheries research: Provided further. That the conservation commission is hereby authorized to establish not to exceed 1 experimental game management, area which shall not exceed 40,000 acres in size, and 4 experimental game management areas not to exceed 5,000 acres each in size, and shall have authority to establish rules and regulations governing the kind of game which may be taken thereon and the time. place and manner or method of taking same.

HISTORY: C.L. 1929, 6140; Am. 1945, p. 358, Act 252, Imd. Eff. May 25; Am. 1952, p. 139, Act 122, Eff. Sept. 18. Am. 1957, p. 360, Act 272, Eff. Sept. 27.

300.4 Same; rescission or modification, procedure; exception. [M.S.A. 13.1214]

Sec. 4. Whenever in any waters or area in which the open season, during which any species of fish, game or fur-bearing animals or game birds may be taken or killed, have been suspended or abridged by any order of the commission of conservation as herein provided, and while such order is still in force, it shall appear to the satisfaction of said commission of conservation that the conditions exisiting in said waters or area no longer demand such additional protection for such species, the said commission shall cause a thorough investigation to be made of such waters and area, and the conditions therein prevailing; and if from such investigation said commission shall be satisfied that by reason of the increase of said fish, game or fur-bearing animals or game birds, protected by said order in said waters or area, or the removal of the cause threatening said species with

depletion or extermination, the additional protection afforded by said order is no longer needed, said commission may, in their discretion, rescind or modify said original order, and notices of the rescinding or modifying of the order shall be published in the same manner as notice of the original order and filed in like manner in the office of the clerk of each county: Provided, That this act shall not be construed to suspend, abridge or regulate the open seasons established by law for the taking of fish for commercial purposes from the waters of lakes Superior, Michigan, Huron, Erie and the bays thereof.

HISTORY: Am. 1929, p. 531, Act 208, Imd. Eff. May 20;—C. I. 1929, 6141.

Act 192, 1929, p. 509; Eff. Aug. 28.

An act to prescribe certain powers and duties of the director of conservation; to provide for the enforcement of the laws relative to the protection, propagation or preservation of wild birds, wild animals and fish; to provide for the enforcement of laws pertaining to the powers and duties of the director of conservation or the commission of conservation; to provide for the condemnation of property seized for violation of such statutes and laws; and to declare as peace officers the director of conservation and any officer appointed by him and to vest in him and them all the powers, privileges, prerogatives and immunities of peace officers under the general laws of the state.

The People of the State of Michigan enact:

300.11 Director of conservation; enforcement of laws for protection, etc., of wild game and fish. [M.S.A. 13.1221]

Sec. 1. It shall be the duty of the director of conservation and of any officer appointed by him to enforce the statutes and laws of this state for the protection, propagation or preservation of wild birds, wild animals and fish, now in force or hereafter enacted; to enforce the provisions of all other laws of this state now existing or hereafter enacted or promulgated which pertain to the powers and duties of the director of conservation or the commission of conservation; to bring or cause to be brought or to prosecute or cause to be prosecuted actions and proceedings in the name of the people of the state for the purpose of punishing any person for the violation of said statutes or laws. Such actions and proceedings shall be brought in the name of the people in like cases in the same courts and under the same procedure as they may now or may hereafter be brought by any individual or by the prosecuting attorneys of the several counties under and by virtue of any statute or law now existing or hereafter enacted.

HISTORY: C.L. 1929, 6144;—Am. 1943, p. 172, Act 135, Eff. July 30;—Am. 1950, p. 38, Act 24, Imd. Eff. July 7.

FISHING-MISCELLANEOUS

Act 175, 1956, p. 334; Eff. Aug. 11.

AN ACT to authorize the conservation commission to plan fish hatcheries for the purpose of restocking the great lakes which border the state; and to appropriate money therefor.

The People of the State of Michigan enact:

307.251 Fish hatcheries to restock great lakes; establishment, plan. [M.S.A. 13.1319(1)]

Sec. 1. The conservation commission may plan the establishment of fish hatcheries for the propagation and cultivation of pickerel, trout and whitefish for restocking the great lakes which border the state of Michigan.

307.252 Same; appropriation from game and fish fund. [M.S.A. 13.1319(2)]
Sec. 2. There is hereby appropriated from the game and fish fund of the state of Michigan for the fiscal year ending June 30, 1957, the sum of \$5,000.00, for the purpose of carrying out the provisions of this act.

307.253 Same; disbursement of appropriation. [M.S.A. 13.1319(3)]

Sec. 3. The amounts hereby appropriated shall be paid out of the state treasury and the expenditures thereof shall be accounted for at such time and in such manner as is or may be provided by law.

COMMERCIAL FISHING

Act 84, 1929, p. 201; Imd. Eff. April 29.

AN ACT to protect fish and to preserve the fisheries of this state; to regulate the taking of fish in the waters of lakes Superior, Michigan, Huron, and Erie, and the bays thereof, and the connecting waters between said lakes within 🤲 jurisdiction of this state; to regulate the transportation, sale and possession of fish a his state; to provide for the issuing of licenses and permits pertaining thereto and the as position of the moneys derived therefrom; to provide for the confiscation of property used or possessed in violation of this act; to provide penalties for the violations of the provisions of this act, and to repeal certain acts relating thereto.

The People of the State of Michigan enact:

308.1 Fish, property of state. [M.S.A. 13.1491]

Sec. 1. All fish of whatever kind found in the waters of lakes Superior, Michigan, Huron and Erie, commonly known as the great lakes, and the bays thereof and the connecting waters between said lakes within the jurisdiction of this state, shall be, and are hereby declared to be, the property of the state of Michigan, and shall be taken, transported, sold and possessed only in accordance with the provisions of this act.

HISTORY: C I. 1929, 6307;—Am. 1933, p. 430, Act 255, Imd. Eff. July 11.

Title Am. 1947, p. 540, Act 324, Imd. Eff. July 2.

COMPILERS' NOTE: The catchines following the act section numbers of this act were incorporated as a part of the act when enacted.

FORMER ACTS: See acts listed under Sec. 49; Act 139 of 1889; Act 151 of 1897; Act 72 of 1901; Act 108 of 1903; Act 315 of 1905; Act 213 of 1909; Act 188 of 1911, all repealed by Act 309 of 1929, being C I. 1929, 121.

SPORTSMEN FISHING I AW: See Compilers' 8, 2011, 13 cec.

SPORTSMEN FISHING LAW: See Compilers' \$ 301.1 et seq.

GAME SANCTUARIES AND REFUGES

Act 368, 1927, p. 881; Imd. Eff. June 2.

An act to create and protect a refuge district in a designated portion of the counties of Barry and Kalamazoo, in the state of Michigan, to be known as "Gull Lake Sanctuary", in which it shall be unlawful to shoot, molest, catch, injure, destroy or kill any wild waterfowl, wild shore bird, wild game birds or any other birds, or any wild animals except rabbits; and to provide penalties for the violation thereof.

The People of the State of Michigan enact:

317.231 Gull lake, prohibited hunting; taxable property. [M.S.A. 13.1171]

Sec. 1. It shall be unlawful for any person to shoot, molest, catch, injure, destroy or kill any wild waterfowl, wild shore bird, wild game birds or any other birds, or any wild animals except rabbits during the open season thereon, within, upon or above the waters of Gull Lake in either the county of Barry or the county of Kalamazoo in this state, or upon or above the territory within 80 rods from the nearest shore line of said lake in either of said counties: Provided, That this act shall not in any way operate to exempt from taxation any otherwise taxable property within the territorial limits herein described.

HISTORY: C.L. 1929, 6128:—Am. 1931, p. 164, Act 102, Eff. Sept. 18. Title Am. 1931, p. 164, Act 102, Eff. Sept. 18;—Am. 1949, p. 124, Act 120, Eff. Sept. 23.

317.232 Penalty for violation of act creating Gull lake sanctuary; arrest without warrant. [M.S.A. 13.1172]

Sec. 2. Any person volating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be subject to a fine of not more than \$100.00 or imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment in the discretion of the court. Any officer authorized to make arrest, including the state conservation officers, may arrest without warrant any person apprehended by them in the act of violating any of the provisions of this act.

HISTORY: C.L. 1929, 6129; Am. 1949, p. 125, Act 120, Eff. Sept. 23

Act 22, 1929, p. 46; Eff. Aug. 28.

AN ACT to create a harbor refuge at Harbor Beach, county of Huron; to protect fish and wild waterfowl therein; and to prescribe penalties for the violation of the provisions of this act.

The People of the State of Michigan enact:

317.241 Harbor Beach refuge. [M.S.A. 13.1181]

Sec. 1. There is hereby created a harbor of refuge, which shall include the entire harbor at Lake Huron at the city of Harbor Beach in Huron county and the area between 2 parallel lines extending respectively, due east from the northern and southern extremities of the main gap in said harbor for a distance of ½ mile and including the waters beneath and the space above all of said territory.

HISTORY: C.L. 1929, 6130.

317.242 Same; unlawful fishing in. [M.S.A. 13.1182]

Sec. 2. It shall be unlawful for any person to take, catch or kill any fish of any kind, except minnows and carp in accordance with the law, within said harbor of refuge, except by spearing or by hook and line, while held in the hand or under the immediate control of such person.

HISTORY: C.L. 1929, 6131; Am. 1945, p. 80, Act 81, Eff. Sept. 6; Am. 1957, p. 25, Act 23, Eff. Sept. 27.

317.243 Same; unlawful use of certain fishing devices. [M.S.A. 13.1183]

Sec. 3. It shall be unlawful to set or use any pound, trap, stake, gill, night lines, setnet or like device of any kind within said harbor of refuge for the purpose of taking, catching or killing of fish of any kind, except seines and dip nets for the taking of minnows and carp as permitted by law.

HISTORY: C.L. 1929, 6132; -- Am. 1957, p. 25, Act 23, Eff. Sept. 27.

Sec 4

HISTORY: C.L. 1929, 6133;—Rep. 1945, p. 80, Act 81, Eff. Sept. 6.
This section provided that it shall be unlawful to hunt or kill waterfowl in said refuge.

317.245 Penalty. [M.S.A. 13.1185]

Sec. 5. Any person violating the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than 10 dollars, nor more than 100 dollars, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 6134.

Act 112, 1895, p. 231; Imd. Eff. May 4.

AN ACT to set aside certain submerged lands in Lake Erie and Detroit river lying east of and adjacent to Monroe and Wayne counties, for public shooting grounds, to make it unlawful to cut and destroy the rushes and other submarine vegetation on such submerged lands and to provide a penalty therefor.

The People of the State of Michigan enact:

317.281 Monroe and Wayne counties, Lake Erie, public shooting and hunting grounds; fishing privileges. [M.S.A. 13.1111]

Sec. 1. That all that part of Lake Erie lying adjacent to the surveyed lands of Monroe and Wayne counties and any submerged lands within the surveyed lines of said counties and connected with Lake Erie and Detroit river providing such surveyed lands are owned by the state of Michigan, shall be and hereby are set apart and dedicated for a public shooting or hunting ground for the benefit and enjoyment of the people of the state of Michigan, for a distance extending 1 mile into said Lake Erie, the eastern line of the submerged lands and waters hereby reserved being 1 mile distant from the surveyed lines of the east side of said counties and parallel thereto: Provided, That this reservation and dedication shall not interfere with, or detract from, any rights or privileges as to fishing now enjoyed by any person, or the public.

HISTORY: C L 1897, 1265;-C L 1915, 397;-C L 1929, 6098.

317.282 Same; trespassers; navigation. [M.S.A. 13.1112]

Sec. 2. All persons who now have, or shall hereafter locate upon any part of such submerged lands or lake, or occupy the same except as herein provided, shall be considered trespassers and may be prosecuted as trespassers upon the public lands in the manner now provided by law: Provided, That such waters shall be free for all purposes of navigation. HISTORY: CL 1897, 1266; -- CL 1915, 398; -- CL 1929, 6099.

317.283 Same; destruction of submarine vegetation; penalty. [M.S.A. 13.1113]

Sec. 3. It shall be unlawful for any person to cut, or otherwise destroy the rushes and other submarine vegetation growing on such reserve without the consent of the board of supervisors of said counties and any person or persons who shall wilfully cut or destroy the same, or cause the same to be done, knowingly, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding 100 dollars, or imprisonment in the county jail of said Monroe or Wayne county not exceeding 90 days.

HISTORY: C L 1897, 1267; -- C L 1915, 399; -- C L 1929, 6100.

Act 171, 1899, p. 251; Imd. Eff. June 23.

AN ACT to set aside the submerged and swamp lands belonging to the state of Michigan bordering upon the great lakes and the bayous thereof and those lying along the shores of the Kalamazoo, Grand and Muskegon rivers, for a public shooting and hunting ground, defining the limits thereof and providing for its care and management.

The People of the State of Michigan enact:

317.291 Great Lakes, Kalamazoo, Grand and Muskegon rivers, public shooting and hunting grounds bordering; boundaries; excluded lands. [M.S.A. 13 11211

Sec. 1. That all of the swamp or submerged lands lying along the borders of Lakes Erie, Huron, Michigan, Superior and St. Clair, except such parts of the "St. Clair Flats," so-called, as shall have been, prior to January first, 1899, actually occupied, built up, cultivated or improved to the extent of at least 25 dollars, within the boundaries of the state of Michigan, and within the limits hereinafter described, and also all swamp or submerged lands adjoining said lakes, or in the bayous adjoining or emptying into said lakes, and also all swamp or submerged lands contiguous to and lying along the shores of the Kalamazoo river, Grand river and Muskegon river, which now belong to the state of Michigan, or to which the state of Michigan shall hereafter acquire title, shall be and hereby is set apart and dedicated for a public shooting and hunting ground, for the benefit and enjoyment of the people of the state of Michigan. This park so set aside shall extend to the state line into the respective lakes from the shore line thereof, and the outer boundary thereof shall be the center line of said lakes or the boundary of said state, and shall include all swamp or submerged lands lying between said shore line and outer boundary: Provided, That no premises herein described shall be deemed to include any islands in any of the said lakes to which the state of Michigan has not title, unless the state shall first acquire such title. Said park shall also include the swamp or submerged lands owned by the state aforesaid or hereafter acquired by the state, bordering upon said lakes or in or upon the bayous emptying therein.

Act 118 of 1921 merely added the italicized words of Sec. 1 as above indicated.

HISTORY: C L 1915, 400;—Am. 1921, p. 257, Act 118, Eff. Aug. 18;—C L 1929, 6101.

Title Am. 1921, p. 257, Act 118, Eff. Aug. 18.

This act largely supersedes Act 112 of 1895, p. 731, being Compilers' § \$317.281 to 317.283.

The title of amendatory Act 118 of 1921 refers to Sec. 1 of Act 171 of 1899, but not to any amendment of the title.

The title as it appeared before amendment read as follows: "An act to set aside the submerged and swamp lands in the State of Michigan bordering upon the Great Lakes and the bayous thereof for a public park, defining the limits thereof and providing for its care and management."

317.292 Same; swamp or submerged lands hereafter acquired. [M.S.A. 13.1122]

Sec. 2. Should the state of Michigan hereafter acquire title to any swamp or submerged lands within the limits aforesaid or bordering upon said lakes, or in or upon any bayou emptying into the same, whether by purchase, escheat, forfeiture, tax bid or tax title, the same shall be, by operation of this act, included in said park and shall not thereafter be offered for sale by the state.

HISTORY: C.I. 1015, 401;-C.L. 1929, 6102.

317.293 Same; lands subject to fish and game laws; navigation; private and municipal dockage. [M.S.A. 13.1123]

Sec. 3. This reservation and dedication shall not interfere with or detract from any rights or privileges of fishing now enjoyed by private persons or the public, but the said park shall be subject to the fish and game laws of this state in the same manner as though there had been no dedication. The waters in this park shall be free for all purposes of navigation. This act shall not be deemed to interfere with the common law right of riparian owners to dockage and wharfage, nor to interfere in any manner with dock or harbor lines or regulations of any municipality or of the state.

HISTORY: C.L. 1915, 402;—C.L. 1929, 6103. FISH AND GAME LAWS: See Compilers' § 311.1 et seq.

317.294 Same; trespassers; officers to protect possession; no statute of limitations. | M.S.A. 13.1124|

Sec. 4. All persons who now have or shall hereafter locate upon any part of the park here set aside, or who shall occupy the same, except as herein provided, shall be deemed trespassers against the state of Michigan, and an action may be brought against such persons in the name of the people of the state of Michigan by the prosecuting attorney or the board of supervisors of any county in which such trespass occurs, or by either the auditor general of the state of Michigan or the commissioner of the state land office; and no statute of limitations shall be deemed operative against the state so as to bar any suit or proceeding brought by or on behalf of the state regarding the possession of such swamp or submerged lands.

HISTORY: C.L. 1915, 403;-C.L. 1929, 6104.

317.295 Same; control by board of supervisors; permissible destruction of submarine vegetation. [M.S.A. 13.1125]

Sec. 5. The board of supervisors of each county shall have the care and control of that part of said park within its own boundaries and that part lying opposite and immediately adjoining in the Great Lakes. The respective boards of supervisors, in their discretion, may allow the cutting or the destruction of the rushes and submarine vegetation growing in said park in or opposite their respective counties.

HISTORY: C L 1915, 404;-C L 1929, 6105.

317.296 Same; destruction of submarine vegetation, consent required; penalty. [M.S.A. 13.1126]

Sec. 6. It shall be unlawful for any person to cut or otherwise destroy, or cause the same to be done, any rushes or other submarine vegetation growing on this park without the consent of the board of supervisors of the county to which such portion of said park is immediately adjoining; and any person or persons who shall wilfully cut or destroy the same, or cause the same to be done, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding 100 dollars and costs of prosecution, or by imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment, at the discretion of the court.

HISTORY: C L 1915, 405;-C L 1929, 6106.

317.297 Same; driving ducks away from hunters; penalty; navigation. [M.S.A. 13.1127]

Sec. 7. It shall be unlawful for any person or persons to wilfully scare or drive wild ducks or other wild water fowl, or cause the same to be done, from or away from any person lawfully hunting the same within said park, for the purpose of depriving or attempt-

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ing to deprive such person of any or all of his opportunities of shooting or hunting such wild duck or other wild water fowl; and every person so offending shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding 100 dollars and costs of prosecution, or by imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment, at the discretion of the court. Nothing herein contained shall be deemed to detract from the right of passage over said waters, in good faith, or in the ordinary course of navigation.

HISTORY: C.L. 1915, 406;—C.L. 1929, 6107.

LANDS

Act 280, 1909, p. 511; Imd. Eff. June 2.

AN ACT to create a commission to be known as a public domain commission; to provide for the appointment of such a commission and to fix their terms of office; to prescribe their powers and duties; to make an appropriation to carry out the provisions of this act; and to repeal all acts and parts of acts inconsistent herewith.

The People of the State of Michigan enact:

322.204 Public domain commission; jurisdiction; powers of forestry commission transferred; body corporate; payment of expenses. [M.S.A. 13.433]

Sec. 4. Said commission shall have power and jurisdiction over and have the management, control and disposition according to law of the public lands, forest reserve and forest interests, of all the interests of the state in connection with stream protection and control and all matters within the jurisdiction, custody and control of the Michigan forestry commission, and all the authority and discretion vested in them by law are hereby transferred to and vested in the public domain commission aforesaid, which is hereby created a body corporate to be known as the public domain commission. The members shall be reimbursed for all their expenses only and shall not receive any compensation for time or services.

HISTORY: Am. 1913, p. 631, Act 333, Imd. Eff. May 13;-C L 1915, 448;-C L 1929, 5840.

GREAT LAKES SUBMERGED LANDS ACT

Act 247, 1955, p. 404; Eff. Oct. 14.

An act to authorize the department of conservation of the state of Michigan to grant, convey or lease certain unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors thereof, belonging to the state of Michigan or held in trust by it; to permit the private and public use of waters over submerged patented lands and the making of agreements limiting and regulating the use thereof; to provide for the disposition of revenue derived therefrom; and to provide penalties for violation of this act.

The People of the State of Michigan enact:

322.701 Great lakes submerged lands act; short title. [M.S.A. 13.700(1)]

Sec. 1. This act shall be known as the "great lakes submerged lands act".

Title Am. 1958, p. 100, Act 94, Imd. Eff. Apr. 14; Am. 1965, p. 563, Act 293, Imd. Eff. July 22.

322.702 Unpatented submerged lake bottom lands and unpatented made lands in Great Lakes; construction of act; land defined. [M.S.A. 13.700(2)]

Sec. 2. The lands covered and affected by this act are all of the unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors thereof, belonging to the state of Michigan or held in trust by it, including those lands which have heretofore been artificially filled in. The waters covered and affected by this act are all of the waters of the Great Lakes within the boundaries of the state. This act shall be construed so as to preserve and protect the interests of the general public in the aforesaid lands and waters and to provide for the sale, lease, exchange or other disposi-

tion of unpatented lands and the private or public use of waters over patented and unpatented lands and to permit the filling in of patented submerged lands whenever it is determined by the department of conservation that the private or public use of such lands and waters will not substantially affect the public use thereof for hunting, fishing, swimming, pleasure boating or navigation or that the public trust in the state will not be impaired by such agreements for use, sales, lease or other disposition. The word "land" or "lands" whenever used in this act shall refer to the aforesaid described unpatented lake bottomlands and unpatented made lands and patented lands in the Great Lakes and the bays and harbors thereof but the act shall not be construed as affecting property rights secured by virtue of a swamp land grant.

HISTORY: Am. 1958, p. 100, Act 94, Imd. Eff. Apr. 14; -Am. 1965, p. 563, Act 293, Imd. Eff. July 22.

322.703 Conveyances, leases and agreements for water use and filling in of submerged lands; exceptions; reservation of mineral rights; exceptions; permit for dredging or placing spoil. [M.S.A. 13.700(3)]

Sec. 3. (1) The department of conservation, hereinafter referred to as the "department", after finding that the public trust in the waters will not be impaired or substantially affected, is hereby authorized to enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands, after approval of the state administrative board. Quitclaim deeds, leases or agreements may be issued or entered into by the department with any person, firm, or corporation, public or private, or the United States of America covering unpatented lands, and shall contain such terms and conditions and requirements which shall be deemed just and equitable and in conformity with the public trust as determined by the department. The department shall reserve to the state of Michigan all mineral rights, including but not limited to coal, oil, gas, sand, gravel, stone and other materials or products located or found in said lands, except where lands are occupied or to be occupied for residential purposes at the time of conveyance.

(2) After the effective date of this amendatory act of 1965, a riparian owner shall obtain a permit from the department, for which no charge shall be made, before dredging or placing spoil or other materials on bottomland.

HISTORY: Am. 1958, p. 101, Act 94, Imd. Eff. Apr. 14;—Am. 1965, p. 564, Act. 293, Imd. Eff. July 22.

322.704 Application for conveyance of unpatented lands; contents; qualifications of applicant; consent. [M.S.A. 13.700(4)]

Sec. 4. (a) Application for a deed or lease to unpatented lands or agreement for use of water areas over patented lands shall be on forms provided by the department. Such application shall include a surveyed description of the lands or water area applied for, together with a surveyed description of the riparian or littoral property lying adjacent and contiguous to the lands or water area, certified to by a registered land surveyor. The description shall show the location of the water's edge at the time it was prepared and such other information that shall be required by the department. The applicant shall be a riparian or littoral owner or owners of property touching or situated opposite the unpatented land or water area over patented lands applied for or an occupant of said land. The application shall include the names and mailing addresses of all persons in possession or occupancy or having any interest in the adjacent or contiguous riparian or littoral property or having riparian or littoral rights or interests in the lands or water areas applied for and such application shall be accompanied by the written consent of all persons having an interest in the lands or water areas applied for in the application.

Approvals required; abstract of title and tax history of riparian land.

(b) Before an application can be acted upon by the department, the applicant shall secure approval of or permission for his proposed use of such lands or water area from any federal agency as provided by law, the Michigan waterways commission and the legislative body of the local unit or units of government within which such land or water area is or will be included, or to which it is contiguous or adjacent. No deed, lease or agreement shall be issued or entered into by the department without such approvals or permission. The department may also require the applicant to furnish an abstract of title

and ownership, and a 20-year tax history on the riparian or littoral property which is contiguous or adjacent to the lands or water area applied for, as well as on the lands applied for, if available,

Deposit with application.

(c) The department shall require the applicant to deposit a fee of not less than \$50.00 for each application filed, which fee shall be deposited with the state treasurer to the credit of the state's general fund. Should a deed, lease or other agreement be approved by the department, the applicant shall be entitled to credit for the fee against the consideration which shall be paid for such deed, lease or other agreement.

HISTORY: Am. 1958, p. 101. Act 94, Imd. Eff. Apr. 14;—Am. 1965, p. 564, Act 293, Imd. Eff. July 22.

322.705 Consideration for conveyance or lease of unpatented lands. [M.S.A. 13.700(5)]

Sec. 5. Should the department determine that it is in the public interest to grant an applicant a deed or lease to such lands or enter into an agreement to permit use and improvements in the waters or to enter into any other agreement in regard thereto, the department shall determine the amount of consideration to be paid to the state by such applicant for the conveyance or lease of unpatented lands.

Lease or agreement to fill submerged lands; permanent improvements; artificial changes in land; consideration; cash market value.

(a) The department may permit, by lease or agreement, the filling in of patented and unpatented submerged lands and permit permanent improvements and structures after finding that the public trust will not be impaired or substantially injured.

The department may issue deeds or may enter into leases if the unpatented lands applied for have been artificially filled in or are proposed to be changed from the condition that exists on the effective date of this act by filling, sheet piling, shoring, or by any other means, and such lands are used or to be used or occupied in whole or in part for uses other than existing, lawful riparian or littoral purposes. The consideration to be paid to the state for the conveyance or lease of unpatented lands by such applicant shall be not less than the fair, cash market value of the lands determined as of the date of the filling of such application, minus any improvements placed thereon but in no case shall the sale price be less than 30% of the value of the land. In determining the fair, cash market value of the lands applied for, the department may give due consideration to the fact that such lands are connected with the riparian or littoral property belonging to the applicant, if such is the case, and to the uses, including residential and commercial, being made or which can be made of said lands.

Agreements for lands or water areas with local units.

(b) Agreements for the lands or water area described in section 2 may be granted to or entered into with local units of government for public purposes and containing such terms and conditions which may be deemed just and equitable in view of the public trust involved and may include the granting of permission to make such fills as may be necessary.

Flood control, shore erosion control, drainage and sanitation control.

(c) If the unpatented lands applied for have not been filled in, nor in any way substantially changed from their natural character at the time the application is filed with the department, and the application is filed for the purpose of flood control, shore erosion control, drainage and sanitation control or to straighten irregular shore lines, the consideration to be paid to the state by the applicant shall be the fair, cash value of such land, giving due consideration to its being adjacent to and connected with the riparian or littoral property owned by the applicant.

Leases or agreements for marina purposes; definition.

(d) Leases or agreements covering unpatented lands may be granted or entered into with riparian or littoral proprietors for commercial marina purposes or for marinas operated by persons, corporations, clubs or associations for such consideration and containing such terms and conditions which are deemed by the conservation department to be just and equitable. Such leases may include either filled or unfilled lake bottomlands, or both. Rental shall commence as of the date of use of such unpatented lands for the marina operations. Dockage and other uses by marinas in waters over patented lands on the effective date of this act shall be deemed to be lawful riparian use.

The term "marina purposes" as used in this act shall be construed as an operation making use of Great Lakes submerged bottomlands or filled in bottomlands for the purpose of service to boat owners or operators which may restrict or prevent the free public use

of the affected bottomlands or filled in lands.

Fraud, consideration; hearing on determination.

(e) If the department after investigation determines that an applicant has wilfully and knowingly filled in or in anyway substantially changed the lands applied for with an intent to defraud, or if the applicant has acquired such lands with knowledge of such fraudulent intent and is not an innocent purchaser, the sale price shall be the fair cash market value of the land. An applicant may request a hearing of any determination made hereunder. The department shall grant a hearing if requested.

H18T ORY: Am. 1958, p. 102, Act 94, Imd. Eff. Apr. 14;—Am. 1965, p. 565, Act 293, Imd. Eff. July 22.

322.706 Determination of minimum valuation; circuit court appraisal. [M.S.A. 13.700(6)]

Sec. 6. The fair, cash market value of lands approved for sale under the provisions of this act shall be determined by the department. In no instance shall the consideration paid to the state be less than \$50.00. If the applicant is not satisfied with the value determined by the department, within 30 days after the receipt of such determination he may submit a petition in writing to the circuit court of the county in which such lands are located and the court shall appoint an appraiser or appraisers as the court shall determine for an appraisal of said lands. Decision of the court shall be final.

HISTORY: Am. 1958, p. 103, Act 94, Imd. Eff. Apr. 14;—Am. 1965, p. 566, Act 293, Imd. Eff. July 22

322.707 Moneys credited to general fund; accounting; employees. [M.S.A. 13.700(7)]

Sec. 7. All moneys received by the department from the sale, leasing or other disposition of lands and water areas under this act shall be paid to the state treasurer and be credited to the state's general fund. The department shall comply with the accounting laws of this state and the requirements with respect to submission of budgets. The department is hereby authorized to hire such employees, assistants and services that may be necessary within the appropriation made therefor by the legislature and to delegate such authority as may be necessary to carry out the terms of this act.

HISTORY: Am. 1965, p. 566, Act 293, Imd. Eff. July 22.

322.708 Taxation of lands conveyed. [M.S.A. 13.700(8)]

Sec. 8. All lands conveyed or leased under this act shall be subject to taxation and the general property tax laws and other laws as other real estate used and taxed by the governmental unit or units within which the land is or may be included.

322.709 Rules and regulations. [M.S.A. 13.700(9)]

Sec. 9. The department is hereby authorized and empowered to promulgate and adopt such rules and regulations, in accordance with the requirements of law, consistent with this act, that may be necessary to carry out its provisions. Such rules and regulations shall be adopted and promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

322.710 Lands or waters filled, excavated or altered without approval, penalty, consideration. [M.S.A. 13.700(10)]

Sec. 10. Any person who excavates or fills, or in any manner alters or modifies any of the land or waters subject to the provisions of this act without the approval of the department shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$1,000.00 or imprisoned not more than 1 year, or both such fine and imprisonment. Lands, the use of which are so changed, shall not be sold to any person convicted under this section at less than fair, cash market value.

HISTORY: Add. 1958, p. 103, Act 94, Imd. Eff. Apr. 14; -Am. 1965, p. 566, Act 293, Imd. Eff. July 22

322.711 Application for certificate denoting boundary or accretion; fee. [M.S.A. 13.700(11)]

Sec. 11. A riparian owner may apply to the department for a certificate suitable for recording indicating the location of his lakeward boundary or indicating that the land involved has accreted to his property as a result of natural accretions or placement of a lawful, permanent structure. The application shall be accompanied by a fee of \$200.00 and proof of upland ownership.

HISTORY: Add. 1965, p. 566, Act 293, Imd. Eff. July 22.

WATER RESOURCES MANAGEMENT

WATER RESOURCES COMMISSION

Act 245, 1929, p. 597; Eff. Aug. 28.

An act to create a water resources commission to protect and conserve the water resources of the state, to have control over the pollution of any waters of the state and the great lakes, with power to make rules and regulations governing the same, and to prescribe the powers and duties of such commission; to prohibit the pollution of any waters of the state and the great lakes; to designate the commission as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

323.1 Water resources commission; members, terms, vacancies, expenses, representatives of state officers. [M.S.A. 3.521]

Sec. 1. For the purpose of carrying out the provisions of this act there is hereby created a water resources commission, hereinafter referred to as the commission, which shall consist of the director of conservation, the commissioner of health, the highway commissioner, the director of agriculture, and 3 citizens of the state to be appointed by the governor, by and with the advice and consent of the senate. 1 from groups representative of industrial management. 1 from groups representative of municipalities, and 1 from groups representative of conservation associations or interests, for terms of 3 years each except that of the members first appointed. 1 shall be appointed for a term of 1 year, 1 for a term of 2 years, and 1 for a term of 3 years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Members of the commission shall be entitled to actual and necessary expenses incurred in the performance of efficial duties. It shall be the duty of the department of administration to provide suitable office facilities for the use of the commission.

Each of the aforsaid state officers is hereby authorized to designate a representative from his department to serve in his stead as a member of the commission for 1 or more meetings.

111STORY: C. I. 1929, 278;—Am., 1941, p. 172, Act 131, Eff. Jan. 10, 1942;—Am. 1947, p. 316, Act 216, Eff. Oct. 11; Am. 1949, p. 120, Act 117, Imd. Eff. May 17.—Am. 1963, p. 228, Act 165, Eff. Sept. 6.

Title Am. 1949, p. 120, Act 117, Imd. Eff. May 17.

323.2 Same; organization, powers and duties. [M.S.A. 3.522]

Sec. 2. The commission shall organize and make its own rules and regulations and procedure and shall meet at least once each month and shall keep a record of its proceedings. The commission shall protect and conserve the water resources of the state and shall have control of the pollution of surface or underground waters of the state of Michigan and the great lakes, which are or may be affected by waste disposal of municipalities, industries, public or private corporations, individuals, partnership associations, or any other entity. The commission is empowered to make or cause to be made surveys, studies and investigations of the uses of waters of the state, both surface and underground, and to cooperate with other governments, governmental units and agencies thereof in making such surveys, studies and investigations. The commission shall assist in an advisory capacity any flood control district which may be authorized by the legislature of this state. The commission in the public interest shall have the right and duty to appear and present evidence, reports and other testimony during the hearings involving the creation and organization of flood control districts. It shall also be the duty and responsibility of the commission to advise and consult with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of any flood control district or intercounty drainage district. The commission shall have the authority to, and shall enforce the provisions of this act and shall make and promulgate such rules and regulations as shall be deemed necessary to carry out the provisions of this act. The rules and regulations of the commission shall be promulgated in conformity with the provisions of Act No. 88 of the Public Acts of 1943, as amended. being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948.

HISTORY: C.L. 1929, 279;—Am. 1949, p. 120, Act 117, Imd. Eff. May 17.

323.2a Same; cooperation and negotiation with other governments. [M.S.A. 3.522(1)]

Sec. 2a. The water resources commission is hereby designated the state agency to cooperate and negotiate with other governments, governmental units and agencies thereof in matters concerning the water resources of the state, including but not limited to flood control and beach erosion control. The commission is further authorized to take such steps as may be necessary to take advantage of any act of congress heretofore or hereafter enacted which may be of assistance in carrying out the purposes of this act.

The commission shall report to the governor and to the legislature at least once in each year any plans or projects being carried on or considered and shall include in such report requests for any legislation needed to carry out any proposed projects or agreements

made necessary thereby, together with any requests for appropriations.

HISTORY: Add. 1949, p. 121, Act 117, Imd. Eff. May 17.

323.3 Water resources commission; actions to enforce laws; duties of attorney general. [M.S.A. 3.523]

Sec. 3. The commission shall be authorized to bring any appropriate action in the name of the people of the state of Michigan, either at law or in chancery as may be necessary to carry out the provisions of this act, and to enforce any and all laws relating to the pollution of the waters of this state. Whenever the attorney general deems it necessary, he shall take charge of and prosecute all criminal cases arising under the provisions of this act.

HISTORY C.L. 1929, 280; Am. 1965, p. 615, Act 328, Eff. Mar. 31, 1966; Am. 1965, p. 823, Act 403, Imd. Eff. Oct. 29.

323.4 Same; investigation powers. [M.S.A. 3.524]

Sec. 4. The commission or any agent duly appointed by it shall have the right to enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions relating to the pollution of any waters of this state. The commission shall have the right to call upon any officer, board, department, school, university, or other state institution and the officers or employees thereof for any assistance deemed necessary to the carrying out of this act.

HISTORY: C.L. 1929, 281.

323.5 Same; pollution standards, powers, rules and orders. [M.S.A. 3.525]

Sec. 5. The commission shall establish such pollution standards for lakes, rivers, streams and other waters of the state in relation to the public use to which they are or may be put, as it shall deem necessary. It shall have the authority to ascertain and determine for record and in making its order what volume of water actually flows in all streams, and the high and low water marks of lakes and other waters of the state, affected by the waste disposal or pollution of municipalities, industries, public and private corporations, individuals, partnership associations, or any other entity. It shall have the authority to make regulations and orders restricting the polluting content of any waste material or polluting substance discharged or sought to be discharged into any lake, river, stream, or other waters of the state. It shall have the authority to take all appropriate steps to prevent any pollution which is deemed by the commission to be unreasonable and against public interest in view of the existing conditions in any lake, river, stream, or other waters of the state.

HISTORY: C L 1929, 282.

323.6 Unlawful discharge into waters. [M.S.A. 3.526]

Sec. 6. (a) It shall be unlawful for any person directly or indirectly to discharge into the waters of the state any substance which is or may become injurious to the public health, safety or welfare; or which is or may become injurious to domestic, commercial, industrial, agricultural, recreational or other uses which are being or may be made of such waters; or which is or may become injurious to the value or utility of riparian lands; or which is or may become injurious to livestock, wild animals, birds, fish, aquatic life or plants or the growth or propagation thereof be prevented or injuriously affected; or whereby the value of fish and game is or may be destroyed or impaired.

Raw sewage; prima facie evidence of violation of act.

of the waters of the state shall be considered prima facie evidence of the violation of section 6 (a) of this act unless said discharge shall have been permitted by an order, rule or regulation of the commission. Any city, village or township which permits allows or suffers the discharge of such raw sewage of human origin into any of the waters of the state by any of its inhabitants or persons occupying lands from which said raw sewage originates, shall be subject only to the remedies provided for in section 7 of this act.

Township sewage disposal systems; approval, bonds.

Whenever a court of competent jurisdiction in this state shall have ordered the installation of a sewage disposal system in any township, and the plans therefor shall have been prepared, and approved by the state health commissioner, the township shall have authority to issue and sell the necessary bonds for the construction and installation thereof, including the disposal plant and such intercepting and other sewers as may be necessary to permit the effective operation of such system. Such bonds shall be issued in the same manner as provided for in Act No. 320 of the Public Acts of 1927, being sections 123.241 to 123.253 of the Compiled Laws of 1948, or any other act providing for the issuance of bonds in townships.

Abatement of public nuisance.

(d) Any violation of any provision of section 6 shall be prima facie evidence of the existence of a public nuisance and in addition to the remedies provided for in this act may be abated according to law in an action brought by the attorney general in a court of competent jurisdiction.

HISTORY: C.I. 1929, 283; Am. 1949, p. 121, Act 117, Imd. Eff. May 17; Am. 1965, p. 615, Act 328, Eff. Mar. 31, 1966; Am. 1965, p. 823, Act 405, Imd. Eff. Oct. 29.

323.7 Notice of violation, contents; hearing, date; extension; order of determination, review. [M.S.A. 3.527]

Sec. 7. Whenever in the opinion of the commission any person shall violate or is about to violate the provisions of this act, or fails to control the polluting content or substance discharged or to be discharged into any waters of the state, the commission may notify the alleged offender of such determination by the commission. Said notice shall contain in addition to a statement of the specific violation which the commission believes to exist, a proposed form of order or other action which it deems appropriate to assure correction of said problem within a reasonable period of time and shall set a date for a hearing on the facts and proposed action involved, said hearing to be scheduled not less than 4 weeks or more than 8 weeks from the date of said notice of determination. Extensions of the date of hearing may be granted by the commission or on request. At such hearing any interested party may appear, present witnesses and submit evidence. Following such hearing, the final order of determination of the commission upon such matter shall be conclusive, unless reviewed in accordance with the provisions of the administrative procedures of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, or any amendment thereto in the circuit court for the county of Ingham, in or for the county in which such person resides, or for the county in which the violation occurred, upon petition therefor filed within 15 days after the service upon said person of the final order of determination.

HISTORY: C.L. 1929, 284; Am. 1949, p. 121, Act 117, Imd. Eff. May 17; Am. 1965, p. 616, Act 328, Eff. Mar. 31, 1966; Am. 1965, p. 823, Act 405, Imd. Eff. Oct. 29.

323.8 Hearing before commission; petition; time and place; review; statement of need for increased use of waters; hearing; order; review. [M.S.A. 3.528]

Sec. 8. (a) Whenever any person shall feel himself aggrieved by the restriction of polluting content, waste or pollution, or any other order of the commission, he shall have a right to file a sworn petition with the commission, setting forth the grounds and reasons for his complaint and asking for a hearing of the matter involved. The commission shall

thereupon fix the time and place for such hearing and shall notify the petitioner thereof At such hearing the petitioner and any other interested party may appear, present witnesses and submit evidence. Following such hearing, the final order of determination of the commission upon such matter shall be conclusive unless reviewed in accordance with the provisions of the administrative procedures of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, or any amendment thereto in the circuit court for the county of Ingham, or for the county in which such person resides, or for the county in which the alleged violation occurred.

(b) On and after May 18, 1949, any person requiring a new or substantial increase over and above the present use now made of the waters of the state for sewage or waste disposal purposes shall file with the commission a written statement setting forth the nature of the enterprise or development contemplated, the amount of water required to be used, its source, the proposed point of discharge of the wastes into the waters of the state, the estimated amount so to be discharged, and a fair statement setting forth the expected bacterial, physical, chemical and other known characteristics of the wastes. Within 60 days of receipt of the statement, the commission shall make an order stating such minimum restrictions as in the judgment of the commission may be necessary to guard adequately against such unlawful uses of the waters of the state as are set forth in section 6. If the order is not acceptable to the user, he may request a hearing on the matter involved, following which the commission's final order of determination in this connection shall be conclusive unless reviewed in accordance with the provisions of the administrative procedures of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, or any amendment thereto in the circuit court for the county of Ingham, in or for the county in which the user resides. or for the county in which the use is contemplated, upon petition therefor filed within 15 days after service upon said user of the final order of determination.

HISTORY: C.L. 1929, 285.—Am. 1949, p. 122, Act 117, Imd. Eff. May 17;—Am. 1965, p. 616, Act 328, Eff. Mar. 31, 1966.—Am. 1965, p. 824, Act 405, Imd. Eff. Oct. 29.

323.9 Criminal complaint; violation of act; noncompliance of act; penalty. [M.S.A. 3.529]

Sec. 9. Any duly appointed agent of the commission shall have authority to enforce the provisions of this act and may make criminal complaint against any person violating the same. After service of a written notice of determination, setting forth specifically any violation of this act, any person who shall fail to comply with the order of the commission shall be subject to the penalties of this act.

HISTORY: C L 1029, 286; Am. 1049, p. 122, Act 117, Imd. Eff. May 17; Am. 1965, p. 617, Act 328 Fff. Mar. 31, 1066; Am. 1965, p. 824, Act 405, Imd. Eff. Oct. 29.

323.10 Unlawful discharge into waters; exceptions; penalties; civil action. [M.S.A. 3.529(1)]

Sec. 10. Any person, except a municipality, who discharges any substance into the waters of the state contrary to the provisions of section 6 or who fails to comply with any restriction, regulation or final order of determination of the commission made under the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$500.00 and in the discretion of the court it may impose an additional fine of not less than \$500.00 per day for any number of days during which such violation occurred: Provided, however, That such person shall not be subject to the penalties of this section if the discharge of the effluent is in conformance with and obedient to a rule, regulation or order of the commission. In addition to the minimum fine herein specified, the attorney general, at the request of the department of conservation, is authorized to file a suit in any court of competent jurisdiction to recover the full value of the injuries done to the natural resources of the state by such violation.

HISTORY: Add. 1965, p. 617, Act 328, Eff. Mar. 31, 1966;—Am. 1965, p. 824, Act 405, Imd. Eff. Oct. 29, ORIGINAL SEC. 10: C.L. 1929, 287;—Rep. 1949, p. 123, Act 117, Imd. Eff. May 17.

323.11 Definitions. [M.S.A. 3.531]

Sec. 11. Wherever the word "person" is used in this act, it shall be construed to include any municipality, industry, public or private corporation, co-partnership, firm or any other entity whatsoever. Wherever the words "waters of the state" shall be used in this act, they shall be construed to include lakes, rivers and streams and all other water courses and waters within the confines of the state and also the great lakes bordering thereon HISTORY: C.I. 1929, 288.

323.12 Act construed. [M.S.A. 3.532]

Sec. 12. This act shall not be construed as repealing any of the provisions of the law governing the pollution of lakes and streams, but shall be held and construed as ancillary to and supplementing the same and in addition to the laws now in force, except as the same may be in direct conflict herewith. This act shall not be construed as applying to copper or iron mining operations, whereby such operations result in the placement, removal, use or processing of copper or iron mineral tailings or copper or iron mineral deposits from such operations being placed in inland waters on bottom lands owned by or under the control of the mining company and only water which may contain a minimal amount of residue as determined by the water resources commission resulting from such placement, removal, use or processing being allowed or permitted to escape into public waters; or applying to the discharge of water from underground iron or copper mining operations subject to a determination by the water resources commission.

HISTORY: C.L. 1929, 289; Am. 1965, p. 617, Act 328; Eff. Mar. 31, 1966;—Am. 1965, p. 824, Act 405, Imd. Eff. Oct. 29

323.12a Provisions of act construed. [M.S.A. 3.532(1)]

Sec. 12a. The provisions of this act shall be construed as supplemental to and in addition to the provisions of Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 277.10, inclusive, of the Compiled Laws of 1948; and nothing in this act shall be construed to amend or repeal any law of the state of Michigan relating to the public service commission, the department of conservation and the department of health relating to waters and water structures, or any act or parts of acts not inconsistent with the provisions of this act.

HISTORY: Add. 1949, p. 122, Act 117, Imd. Eff. May 17.

Sec. 13. (This was a severing clause section.) HISTORY: C.I. 1929, 290;—Rep. 1945, p. 414, Act 267, Imd. Eff. May. 25.

FEDERAL GRANTS-SEWAGE TREATMENT PLANTS

Act 222, 1949, p. 255; Eff. Sept. 23.

AN ACT to authorize public corporations to accept grants and other aid from the United States government or any agency thereof and from industries for the construction of public improvements the purpose of which is to aid in the prevention and abatement of water pollution and in furtherance of such purpose to authorize public corporations to enter into contracts with industries covering the use, operation and coordination of sewage collection, treatment and/or disposal facilities.

The People of the State of Michigan enact:

323.101 Definitions. [M.S.A. 5.2770(21)]

Sec. 1. As used in this act, unless a different meaning clearly appears from the context:

(a) The term "public corporation" shall be construed to mean any county, city, village, township or metropolitan district, of the state of Michigan, or any authority created by or pursuant to an act of the legislature.

(b) The term "governing body" shall be construed to mean, in the case of a county, the board of supervisors; in the case of a city, the council, common council, commission or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees or other body having legislative powers; in the case of a township, the township board; in the case of a metropolitan district, the legislative body of the district; and in the case of an authority, the body in which is lodged general governing powers.

323.102 Aid in prevention or abatement of water pollution; public corporation may accept, from federal government, etc. [M.S.A. 5.2770(22)]

Sec. 2. Any public corporation is hereby authorized to apply for and accept grants or any other aid which the United States government or any agency thereof has authorized or may hereafter authorize to be given or made to the several states of the United States or to any political subdivisions or agencies thereof within the states for the construction of public improvements, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution.

323.103 Same; contracts and agreements. [M.S.A. 5.2770(23)]

- Sec. 3. Any public corporation is further authorized to accept contributions and other aid from industries for the purpose of aiding in the prevention or abatement of water pollution and in furtherance of such purpose to enter into contracts and agreements with industries covering the following:
- (a) The collection, treatment and disposal of sewage and industrial wastes from industries:
- (b) The use and operation by any such public corporation of sewage collection, treatment and/or disposal facilities owned by any industry;
- (c) The coordination of the sewage collection, treatment and/or disposal facilities of the public corporation with the sewage collection, treatment and/or disposal facilities of any industry:
- (d) When determined by its governing body to be in the public interest and necessary for the protection of the public health, any public corporation is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the public corporation of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the public corporation of amounts at least sufficient, in the determination of such governing body, to compensate the public corporation for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment: Provided, That the exercise by any public corporation of such powers outside of its corporate limits shall be subject to the legal rights of the political subdivision within which such powers are to be exercised and shall also be subject to any and all constitutional and statutory provisions relating thereto.

STATE GRANTS-SEWAGE TREATMENT PLANTS

Act 329, 1966, p. 592; Imd. Eff. July 19.

AN ACT to provide state grants for sewage treatment facilities.

The People of the State of Michigan enact:

323.111 State water pollution control fund; grants to local units; limitations. [M.S.A. 3.533(51)]

Sec. 1. A fund to be known as the state water pollution control fund is established to be used for state grants to counties, cities, villages, townships or other public bodies created by or pursuant to state law and having jurisdiction over disposal of sewage or other wastes, hereinafter referred to as municipalities, for their construction or reconstruction of sewage treatment facilities. The state grants shall supplement federal grants for such purpose made under the provisions of Public Law 84-660 of the United States, as amended, or such other grants which may be authorized by federal statute to extend assistance to additional governmental units. No project is entitled to a state grant which would increase its total allocation under federal and state grants to more than 30%, or such higher percent as a federal statute may authorize, of the cost of the eligible project or \$1,200,000.00, whichever is less.

323.112 Deposit of funds; certification of projects. [M.S.A. 3.533(52)]

Sec. 2. Moneys appropriated to the fund shall be deposited with the state treasurer and paid out by him to municipalities in accordance with accounting laws of the state for eligible projects upon certification by the water resources commission.

323.113 Certification of state priority projects; basis for eligibility; uncertified projects. [M.S.A. 3.533(53)]

Sec. 3. (1) Each fiscal year, after the water resources commission has certified to the federal water pollution control administration from the commission's priority list, projects sufficient to utilize the federal funds available for grants, it shall thereafter certity in accordance with accounting laws of the state in their order of priority such additional projects as may then be, or may before June 1 of the same fiscal year, become eligible. The basis for engibility for and payment of state grants shall be the same as for federal grants, except as the latter require action by the federal government which action shall instead be taken by the water resources commission as nearly consistent as may be with the federal action taken relative to federal grants.

(2) When unallocated federal grant funds become available after certification of projects for state grants has been started, eligible, uncertified projects shall thereafter be certified for federal grants until such funds are exhausted, after which certification for state grants shall be resumed.

323.114 Rules and regulations. [M.S.A. 3.533(54)]

Sec. 4. The water resources commission may promulgate rules and regulations for the enforcement of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

WATER AND SEWAGE DISTRICTS

Act 211, 1956, p. 441; Eff. Aug. 11.

AN ACT to prescribe certain powers and duties of the water resources commission; to authorize the commission to make surveys, studies and investigations of the water resources of the state and of the sewage disposal requirements of local units of government; to authorize the establishment of sewage disposal and water supply districts; to define the powers and duties of the districts; to provide for the exercise of such powers of the districts, including the power to acquire property by condemnation, purchase, gift or otherwise; to empower districts to adopt programs, to acquire, construct, extend, improve and operate sewage disposal systems and water supply systems; to provide for the issuance of bonds by the districts, to authorize districts to make contracts and agreements with municipalities for said purposes; and to empower municipalities to finance by taxes or issuance of bonds the carrying out of the contracts.

The People of the State of Michigan enact:

323.151 Sewage disposal and water supply district act; definitions. [M.S.A. 5.2769 (81)]

Sec. 1. As used in this act:

(a) "Sewage disposal systems" includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities and properties used or useful in connection with the collection, treatment and disposal of sewage and industrial wastes.

(b) "Water supply system" includes all plants, work, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water and the distribution of water.

(c) "Municipality" includes any metropolitan district, water and/or sewer authority heretofore created under existing statutes, county, township, charter township, incorporated city or incorporated village. An incorporated village, for the purposes of this act, shall be considered a governmental unit separate and distinct from the township or townships in which it is located.

(d) "Water supply and sewage disposal district" means a governmental subdivision of this state and a public body corporate and politic organized in accordance with the provisions of this act for the purpose, with the powers and subject to the restrictions hereinafter set forth.

(e) "United States or agencies of the United States" includes the United States of America or any bureau, department, agency or instrumentality of the United States or

otherwise created by the congress of the United States.

- (f) "Due notice" means notice published at least twice, with an interval of at least 7 days between the 2 publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to the notice, at the time and place designated in the notice, adjournment may be made from time to time without the necessity of renewing the notice for such adjourned dates.
 - (g) "Commission" means the water resources commission.

323.152 Same; water resources commission, duties. [M.S.A. 5.2769(82)]

Sec. 2. The water resources commission under this act shall have the following powers

and perform the following duties and functions:

(a) To foster and encourage the organization of sewage disposal and water supply districts and to act as the administrative agency in the proceedings incident to the formation of districts and to offer and lend such assistance as may be appropriate to the directors of districts organized as provided hereinafter in the carrying out of any of their powers, functions and programs;

(b) To cooperate, negotiate and enter into contracts with the other governments, governmental units and agencies thereof in matters concerning water supply systems and sewage disposal systems; to take such steps and perform such acts and execute such documents as may be necessary to take advantage of any act heretofore or hereafter enacted by the congress of the United States which may make available funds for any of the purposes enumerated in this act or be otherwise of assistance in carrying out the purposes of this act; to disburse moneys which may be appropriated by the state legislature for the use and benefit of the districts hereinafter created or municipalities or local units of government of the state of Michigan in accordance with the formula prescribed in this act or in the acts of appropriation, and to disburse moneys that may be received by the state of Michigan from the United States government for the purposes provided for in this act in accordance with the formula set forth by the act of congress applicable thereto;

(c) To act as the fiscal agent for the state of Michigan, for the purpose of making available to local units of government and the districts as may be organized under this act, moneys, funds or other instruments of indebtedness which may be approved by the legislature or the people of this state for the construction and operation of sewage disposal systems

by such municipalities, local units of government or districts;

(d) To coordinate its duties and functions with similar or related duties and functions that are presently performed by other state agencies or governmental units to the end that all of the agencies and units shall coordinate and cooperate in their efforts for accomplishing the purposes of this act.

323.153 Same; joint municipal action to form district, petition. [M.S.A. 5.2769(83)]

Sec. 3. Any 2 or more municipalities, by resolution of their legislative body, may file a petition with the commission requesting that a sewage disposal district or a water supply district or a combination of both be organized to function in the territory described in the petition. The petition shall set forth:

(a) The proposed name of the district;

(b) That there is need in the interests of public health and welfare for such a district to function in the territory described in the petition;

(c) A description of the territory proposed to be organized as a district, which descrip-

tion shall not be required to be given by metes and bounds or by legal subdivision, but shall be deemed sufficient if generally accurate and designates the local units of governments comprised therein: Provided, That such territory shall include only area within the boundaries of the municipality so petitioning:

(d) A request that a referendum be held within the territory so defined on the question of creation of such a district in the territory; and that the agency determine that such a district be created.

When more than 1 petition is filed covering parts of the same territory the agency may consolidate all or any such petitions.

323.154 Same; hearing, notice, adjournment; determination as to territory affected. [M.S.A. 5.2769(84)]

Sec. 4. Within 30 days after the petition has been filed with the commission or within such further time as the commission may determine as being necessary, but which extended time shall not exceed 90 days, it shall cause due notice to be given of a hearing upon the question of the desirability and necessity in the interests of public health and welfare of the creation of the district, upon the question of appropriate boundaries to be assigned to the district, upon the propriety of the petition and of the proceedings taken under this act, and upon all other questions relative to such matter. All interested parties, shall have the right to attend the hearings and be heard. Notice of the time and place of holding the hearing shall be given to all of the executive officials of the municipalities included within the territory involved in accordance with section 1, subdivision (f) of this act. If it shall appear upon the hearing that it is desirable to include within the proposed district territory outside of the area within which due notice has been given, or if it is made to appear that more data or information is needed, the hearing shall be publicly adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district and such further hearing held. The commission shall cooperate to the fullest extent possible with the local units of government included within the territorial limits of the proposed district in the making of the necessary investigations and engineering and financial studies that may be required for the proper decisions to be made by the commission upon the conclusion of the hearing. After the hearing, if the commission shall determine upon the facts presented and upon such other relevant facts and information as may be available to it, that there is need in the interests of public health and welfare for a sewage disposal or water supply district, or both, to be created and function in the territory considered at the hearing, it shall make and record such determination and shall define in a practical manner the boundaries of such districts by the territorial limits of municipalities included therein or by metes and bounds. In making the determination and in defining the boundaries the commission may give due weight and consideration to the physical and topographical conditions of the area considered, availability or nonavailability of water resources, the engineering and economic feasibility of the construction and management of the works required and all other relevant and pertinent facts that may be brought to its attention or of which it may have knowledge. Such additional territory shall not be included without the approval by resolution of the legislative body of any municipality affected, including the original petitioners.

323.155 Determination of no necessity, recording. [M.S.A. 5.2769(85)]

Sec. 5. (a) If the commission shall determine after the hearing, having given due consideration to all of the relevant facts, that there is no need for such a district to be formed in the territory considered at the hearing and that the operation of the district within the defined boundaries is not practicable and feasible from the standpoint of engineering administration and financing, it shall make and record the determination and shall deny any petition filed with it.

Determination of necessity; referendum, qualification of electors.

(b) If the commission has made and recorded a determination that there is need in the interests of public health and welfare for the formation, organization and functioning of a district in a particular territory and has defined the boundaries thereof, it shall consider the question of whether the operation of such a district within the boundaries with the

powers conferred upon such districts in this act is desired by a majority of the electors within the boundaries of the district. To assist the commission in the determination of such question it shall be the duty of the commission, within a reasonable time of entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to order a referendum within the proposed district upon the proposition of the creation of the district and to order the municipalities affected to cause due notice of the referendum to be given. The commission shall direct the officials in charge of the holding of elections in the local units of government included within the district to call a special election or to place the referendum on the ballot at the next general election to be held in all of the territory comprising the district. The question shall be submitted by ballots prepared by the commission which shall succinctly describe the district proposed to be formed, the area in which it shall function and in appropriate language require those voting on the proposition to vote for or against the creation of the district, all in accordance with the requirements of law for the holding of referendums on state questions. The costs of the preparation of such ballots shall be borne by the municipalities affected. Only electors who have property assessed for taxes within the boundaries of the district shall be eligible to vote in the referendum. Upon the completion of the referendum, the commission shall publish the result thereof.

Expenses of referendum.

(c) The commission shall pay all expenses for the issuance of the notice and the conduct of the hearings and shall supervise the conduct of the hearings. The referendum shall be held by the regular established election officials and any costs shall be borne by the municipalities affected. It shall promulgate and adopt appropriate regulations governing the conduct of the hearings.

Creation of district.

(d) If the referendum is favorable to the formation of the proposed district the commission shall call a conference of all the officials of all of the municipalities within the boundaries of the proposed district and every effort shall be made by the commission to foster and encourage the municipalities to incorporate an authority for the purpose of constructing and operating a sewage disposal system or water supply system, as the case may be, under the terms and authority vested in the municipalities by Act No. 233 of the Public Acts of 1955, being sections 124.281 to 124.294, inclusive, of the Compiled Laws of 1948, or any other appropriate act. If after the expiration of 180 days from the holding of the conference, or within such additional period as the commission may in its discretion deem necessary, the municipalities have not brought into being such authority as is provided in this act, the commission shall make, file and publish as herein provided a determination creating the district as contained in the application and as approved by the referendum.

Temporary governing body of district.

(e) Upon the making and filing of the determination due notice thereof shall be served and published and the commission shall appoint 5 directors who are electors for the purpose of this act within the territory comprising the district and who shall comprise a temporary governing body of the district, who shall hold office until the officers of the first permanent governing body have been elected and qualified.

District; application for incorporation, contents.

(f) The district shall be a governmental subdivision of this state and a public body corporate upon the taking of the following proceedings:

The appointed directors shall present to the secretary of state an application signed by

them which shall set forth:

(1) That a petition for the creation of the district was filed with the commission pursuant to the provisions of this act and that the proceedings specified in this act were taken in pursuance thereof; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body corporate under this act and that they are the temporary directors thereof;

(2) The name and official residence of each of the directors together with a certification

of their appointment;

(3) The name which is proposed for the district;

(4) The location of the present office which has been selected for the district by the directors

Same: certified statement, contents.

(g) The application shall be subscribed and sworn to by at least a majority of the directors before an officer authorized by the laws of the state to administer oaths, which officer shall certify upon the application that he personally knows the directors and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a certified statement made by the commission that a petition was filed, notice issued and hearing held as aforesaid; that the commission did duly determine that there is need in the interests of public health and welfare for such a district to function in the proposed territory and did define the boundaries thereof; that notice was given and referendum held in the question of creation of such district and that the result of the referendum showed a majority of the votes cast in the referendum to be in favor of the creation of such a district; that the commission did duly determine that the operation of the proposed district is administratively practicable and feasible, and the statement shall set forth the boundaries of the district.

Same: public body corporate, certificate of organization.

(h) The secretary of state shall examine the application and statement and if he finds that the name proposed for the district is not identical with any similar district of this state or so nearly identical as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. When the application and statement have been made, filed and recorded as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate. The secretary of state shall make and issue to the directors a certificate under the seal of the state of the due organization of the district and shall record such certificate with the application and statement.

Same; additional territory.

(i) Petitions for including additional territory within an existing district may be filed with the commission and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form for the petitions, which shall be as nearly as possible to the form prescribed in this act for petitions to organize a district. The petition shall be filed with the commission and upon its receipt it shall be referred to the governing body of the district to be affected thereby and if, after due consideration, the governing body determines against the inclusion of such additional territory, such petition shall be duly denied

Same: evidence of establishment.

(j) In any suit, action or proceedings involving the validity or enforcement of or relating to any contract, proceedings or action of the district, the district shall be deemed to have been duly and legally established in accordance with the provisions of this act upon proof of the issuance of the certificate by the secretary of state, and shall be admissible in evidence in any such suit, action or proceedings and shall be proof of the filing and contents thereof.

323.156 Permanent governing body; election, term, vacancy; quorum; compensation, expenses. [M.S.A. 5.2769(86)]

Sec. 6. The first permanent governing body of the district after it has been organized and has received the certificate provided for by the secretary of state shall consist of 5 directors. The directors shall be nominated and elected at the next general state election, providing the election falls at least 90 days prior thereto, in the same manner and in accordance with the election laws applicable to members of the house of representatives. They shall hold office for a term of 6 years: Provided however. That among the first directors to be elected the 2 receiving the highest number of votes shall hold office for the full term of 6 years; the 3 receiving the next highest number of votes shall hold office for

4 years. Thereafter, upon the expiration of their terms, they shall be elected for the full 6 year term. The secretary of state shall be responsible for the certification of the election of the directors. Any vacancy occurring shall be filled by appointment made by the remaining directors for the unexpired term. A majority of the directors shall constitute a quorum for the transaction of business and the concurrence of a majority of the total number of directors in any matter shall be required for its determination. A director shall receive no compensation for his services, but he shall be reimbursed for his expenses necessarily incurred in the discharge of his duties.

323.157 Officers, employees, technical assistance, records, rules, municipal representatives. [M.S.A. 5.2769(87)]

Sec. 7. The directors may employ an executive secretary, technical experts and such other officers, agents and employees, permanent or temporary, as they may require and shall determine their qualifications, duties and compensation. The directors may delegate to their chairman, to one or more directors, or to one or more agents or employees, such powers and duties as they may deem proper. The directors shall furnish to the commission upon request copies of all rules, regulations, orders, contracts, forms, minutes, proceedings and other documents which they shall adopt or employ and such other information concerning their activities as it may require in the performance of its duties under this act. The directors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all rules, regulations and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. The directors shall invite the legislative body and executive officers of any municipality located within the territory comprised within the district to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, water supply or sewage disposal problems or other interests of such municipalities.

323.158 Districts, powers. [M.S.A. 5.2769(88)]

Sec. 8. Any district organized under the provisions of this act shall constitute a governmental subdivision of this state and a body corporate, exercising public powers, with power to sue and to be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its organization and those incident thereto and enumeration of any powers herein shall not be construed as a limitation upon such general powers. The district is hereby authorized and empowered:

Construction of sewage disposal and water supply systems.

(a) Pursuant to the terms of any contract entered into under section 9 of this act to construct and operate sewage disposal systems and water supply systems within the area comprising its territorial limits and to acquire, extend and improve the systems.

Investigation as to new sources of supply of water.

(b) To make and cause to be made surveys, studies and investigations of water resources of the area within its territorial limits for the purpose of determining the feasibility and practicability of developing new sources of water supply to municipalities, industrial and commercial establishments, as well as to agricultural and residential lands and areas to the end that water shall be made available to the aforesaid of a quantity and quality necessary for the protection of the public health and the promotion of the general welfare within the areas.

Investigation as to sewage disposal facilities.

(c) To make and cause to be made surveys, studies and investigations for the purpose of ascertaining the requirements of municipalities, industrial and commercial establishments, individual and collective groups or occupants of lands for sewage disposal systems to the end that sewers and sewage disposal facilities shall be made available to the aforesaid which are situated within the territorial limits of the district and which may need or require the facilities in the protection of public health and the promotion of the general welfare

Acquisition of property, condemnation.

(d) To cooperate with or enter into agreements with any municipality or any other unit of government or with any other persons, firms, associations or corporations as may be necessary for the full performance of its functions and duties and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise any property, real or personal, or rights or interests therein, either within or without its territorial limits; to maintain, administer and improve any properties so acquired; to receive income from same and to expend the income in carrying out the purposes and provisions of this act; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this act. The district is herewith invested with the power of eminent domain in acquiring private property for public use and for the purposes of exercising the power, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, or any other statute which grants to any municipality or public body the authority to acquire private property for public use.

Acceptance of appropriations from state.

(e) To accept and receive such moneys as may be appropriated to said district, directly or indirectly, by the legislature of the state of Michigan and to accept and receive such moneys as may be appropriated for its use and benefit to the state agency herein created for such purposes as shall be provided in the act or acts of appropriation or other legislative enactments.

Acceptance of federal funds.

(f) To accept and receive any funds or moneys which may be appropriated by any act of congress either directly from any federal governmental agency responsible for the disbursement and allocation of the funds or through the commission and for that purpose the districts are authorized to execute such contracts, documents or agreements as may be required by the provisions of the congressional acts as a prerequisite to the securing of the funds.

323.159 Districts; contracts with municipalities for construction and financing of systems. [M.S.A. 5.2769(89)]

Sec. 9. (a) The district may enter into contracts with any municipality located within its territorial limits providing for the acquisition, construction, improvement, enlargement, extension, operation and financing of a sewage disposal system or water supply system, which contracts shall provide for the allocation and payment of the share of the total cost to be borne by the municipality in annual installments for a period not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract, in which event it shall be the duty of each contracting municipality to include in its annual tax levy an amount sufficient so that the estimated collections therefrom will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection. The district shall make a reasonable charge for its services which it renders to the users thereof in order to cover the retirement of outstanding indebtedness, costs of operation, maintenance and replacement of its plants and reserves for capital improvements. Should there be any excess money in the treasury of the district after all of the contingencies have been met, the excess shall be rebated to the contracting municipalities in proportion to the total amount which the municipalities have paid for services it has received from the district. No limitation in any statute or charter shall prevent the levy and collection by each of the contracting municipalities of the full amount of taxes necessary for the payment of the contractual obligation. If at the time of making the annual tax levy, there are other funds on hand earmarked for the payment of the contractual obligation, then credit therefor may be taken upon the annual levy for the payment of the obligation. Such other funds may be raised by each contracting municipality by the use of any, or all, or any combination of the following additional methods:

(1) The levy of special assessments on property benefited by such sewage disposal system or water supply system, the procedures relative to the levying and collection of the special assessments to conform as near as may be to applicable charter or statutory provisions therefor:

(2) The levy and collection of rates or charges to users and beneficiaries of the service

or services furnished by the sewage disposal system or water supply system;

(3) From moneys received, or to be received, derived from the imposition of taxes by the state of Michigan, except as the use of such money for such purpose is expressly pro-

hibited by the constitution of the state of Michigan; and

(4) From any other fund or funds which may be validly used for the purpose. The contract may provide for any and all matters relating to the acquisition, construction, operation and financing of the sewage disposal system or water supply system as are deemed necessary, including authorization to the district to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized hereinafter. The contract may provide for appropriate remedies in case of default, including, but not limited to the right of the municipalities to authorize the county treasurer or other official charged with the disbursement of funds derived from the state sales tax levy under the provisions of Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78, inclusive, of the Compiled Laws of 1948, and returnable to the governmental units pursuant to section 23 of article 10 of the Michigan constitution, to withhold sufficient funds to make up any default or deficiency in funds.

Contracts by municipality, petition for referendum, special election.

(b) Any municipality desiring to enter into a contract with the district under the provisions of this section shall authorize by resolution of its governing body, the execution of the contract, which resolution shall be published in some newspaper of general circulation within the municipality, and the contract may be executed without a vote of the electors thereon upon the expiration of 30 days after the date of the publication unless, within the 30 day period, a petition signed by not less than 10% of the registered electors residing within the limits of the municipality shall have been filed with the clerk thereof requesting a referendum upon the execution of such contract, and in that event the contract shall not be executed until approval by the vote of a majority of the electors of the municipality qualified to vote and voting thereon at a general or special election to be held not more than 90 days after the filing of the petition. Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any petition shall be verified by some person under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk of the municipality shall have the same power to reject signatures as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Compiled Laws of 1948. The number of registered electors in any municipality shall be determined by the registration books as of the date of the filing of the petition.

District bonds based on municipal pledges.

(c) For the purpose of obtaining funds for the acquisition, construction, improving enlarging or extending of the sewage disposal system or water supply system authorized by this act, the district, after the execution of the contract or contracts authorized by this act, upon ordinance or resolution duly adopted by it, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization contained in this act and the contracts entered into pursuant thereto. The bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 4 years from the date of issuance, and the last of which shall fall due not more than 40 years from the date of issuance, and no maturity after 4 years from date of issuance shall be less than 1/4 the amount of any subsequent maturity. Save as herein otherwise provided bonds shall be issued and sold and subject to all other applicable provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948. The ordinance or resolution authorizing the issuance of the bonds shall have embodied therein the terms of the contracts.

323.160 Contracts for sewage treatment; application of revenues. [M.S.A. 5.2769(90)]

Sec. 10. The district may enter into a contract for the furnishing of sewage treatment services by any sewage treatment plant owned or operated by the district as a part of its sewage disposal system or the furnishing of water service from any water facilities owned or operated by the district, which contract shall provide for reasonable charges or rates for the service furnished. Any income derived from such contracts shall be applied by the district to the costs of operation and maintenance of its sewage disposal system or its water supply system, and any balances remaining after payment of its cost in reduction of its outstanding bonded indebtedness incurred for the acquisition or improvement of its sewage disposal system or water supply system. No contract shall be for a period exceeding 40 years.

323.161 Detachment of territory from participating municipality. [M.S.A. 5.2769(91)]

Sec. 11. Whenever territory is detached from a municipality which is part of a district created under this act and transferred to a municipality which is not part of such district, such territory shall remain a part of the municipality from which detached only for the purpose of carrying out any contractual obligations or for the purpose of levying a tax to retire any bonded indebtedness incurred by such district for which the territory is liable, in whole or in part, until such contractual obligations have been fulfilled or such bonds redeemed, or sufficient funds are available in the district's debt retirement fund for such purposes. Such territory shall be a part of the municipality to which transferred for all other purposes and subsequent to the redemption of such bonds or the time when sufficient funds are available to redeem such bonds, such territory shall no longer be a part of the district.

323.162 Existing systems, purchase, self-liquidating revenue bonds. [M.S.A. 5.2769(92)]

Sec. 12. If any district formed under the provisions of this act by its governing body determines and decides to acquire or extend, improve and operate a sewage disposal system or water supply system or decides and determines to provide for the sale and purchase of sewage disposal service or water supply service from any existing system or systems and executes such contracts as may be necessary for same, the authority may, pursuant to any contract or contracts entered into under section 9 of this act, issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.131, inclusive, of the Compiled Laws of 1948, or any other act providing for the issuance of revenue bonds, which bonds shall be payable solely from the revenues of the sewage disposal system or the water supply system. The charges specified in any contract shall be subject to increase by the district at any time if necessary in order to provide funds to meet its obligations and any contract authorized herein shall be for a period of not exceeding 40 years. The legislative body of any municipality which has entered into a contract with the district is authorized to raise by taxes or pay from its general funds any moneys required to be paid under the terms of the contract for the purpose of obtaining maps, plans, designs, specifications and cost estimates of the proposed sewage disposal system or water supply system.

FEDERAL GRANTS-TO WATER RESOURCES COMMISSION

Act 13, 1956 (Ex. Ses.), p. 15; Imd. Eff. Nov. 13.

AN ACT to authorize the state water resources commission to comply with the provisions of Public Law 660 of the 84th congress; to appropriate funds therefor, and to provide for the disbursement thereof.

The People of the State of Michigan enact:

323.201 Water pollution; water resources commission, expenditure of funds.

Sec. 1. The state water resources commission is hereby authorized, subject to the requirements of Act No. 88 of the Public Acts of 1943 and Act No. 197 of the Public Acts of

1952, to take such steps as may be necessary to comply with the provisions of Public Law 660 of the 84th congress, known as the water pollution control act amendments of 1956, and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution. This act shall not be construed as authorizing the commission to expend nor to incur any obligation to expend any state funds for such purpose in excess of any amount which may be appropriated by the legislature.

323.202 Appropriation of available federal funds.

Sec. 2. The amount of federal funds available to this state under the provisions of section 5 of Public Law 660 of the 84th congress, not to exceed \$55,373.00, is hereby appropriated to the water resources commission to carry out the purposes of this act for the fiscal year ending June 30, 1957.

323.203 Accounting, disbursement.

Sec. 3. The amount hereby appropriated shall be paid out of the state treasury and the expenditure thereof shall be accounted for at such time and in such manner as is or may be provided by law, and the disbursement thereof shall be governed by the provisions of Act No. 219 of the Public Acts of 1956.

SWIMMERS' ITCH

Act 58, 1959, p. 59; Imd. Eff. June 5.

AN ACT to authorize the water resources commission to supervise the chemical treatment of certain waters of the state for the control of swimmers' itch; to provide for the lawful use of copper and other chemicals for the purpose; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

323.221 Chemical treatments; suppression of swimmers' itch; experiments; rules and regulations. [M.S.A. 3.533(11)]

Sec. 1. The water resources commission shall supervise the chemical treatment of the waters of the state for the suppression of swimmers' itch, and other nuisance-producing organisms, in accordance with the provisions of this act. The commission may conduct experiments for the purpose of ascertaining the best methods for control, and may purchase equipment and materials for control. The commission may adopt rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, governing the control and administration of this act.

323.222 Same; copper, application. [M.S.A. 3.533(12)]

Sec. 2. The application of copper or other necessary chemicals in powder, crystal or solution form to the waters of this state for the control of aquatic nuisances, such as swimmers' itch, is declared to be lawful and not in contravention of the pollution laws of this state or of private or public rights to the use and enjoyment of abutting property by the owners or occupants thereof when the application is made in accordance with the provisions of this act.

323.223 Same; permits. [M.S.A. 3.533(13)]

Sec. 3. The necessary control work may be conducted by the state or any political subdivision or by organized lake or improvement associations in behalf of their members, or by the owner of property abutting on the waters of the state, or by his authorized agent, or by private contractor, after obtaining a permit from the water resources commission. The permit when issued shall expire on December 31 of the calendar year in which issued.

323.224 Same; conduct, safeguards. [M.S.A. 3.533(14)]

Sec. 4. The necessary work shall be conducted at such times, under such conditions, and with such safeguards, as the water resources commission shall require. The commission may provide permits for the suppression of swimmers' itch, where applicants provide at their own expense chemicals and other equipment and services called for in the rules and regulations adopted by the commission.

323.225 Same; violation, penalty. [M.S.A. 3.533(15)]

Sec. 5. Any person who fails to obtain the necessary permit in advance of undertaking such work, or who fails to abide by the rules and regulations of the commission or the conditions of any valid permit, is guilty of a misdemeanor; and shall be fined not less than \$25.00 nor more than \$100.00, and costs of prosecution.

On the filing of a sworn complaint by an authorized agent of the commission, the prosecuting attorney of the county in which the violation occurs shall take charge of and prosecute all cases arising under the provisions of this act.

LOW GRADE IRON ORE MINING

Act 143, 1959, p. 203; Eff. Mar. 19, 1960.

AN ACT to authorize permits for the use of water for the operation of low grade iron ore mining property; to prescribe the terms and conditions of water use permits; and to prescribe the powers and duties of the state water resources commission.

The People of the State of Michigan enact:

323.251 Low grade iron ore; mining and beneficiation, water permits. [M.S.A. 13.145(1)]

Sec. 1. Substantial deposits of low grade iron ore are located in the Upper Peninsula of this state. The development and continuation of the industry of mining and beneficiating such low grade ores will provide employment and generally improve economic conditions in that area and will be in the public interest and for the public welfare of this state. As the mining and beneficiating of the low grade iron ore requires considerable quantities of water, it is necessary that persons engaged in or about to engage in the mining and beneficiation of such ores be assured of an adequate and continuing supply of water for such operations to protect the large capital expenditures required for mills, plants and other improvements. It is, therefore, declared that the use of water as herein defined in connection with the mining and beneficiation of such low grade iron ores is in the public interest, for the public welfare and for a public purpose; and permits for the use of water or waters, as herein defined, may be issued by the commission in connection with the mining and beneficiation of such low grade iron ores as herein provided.

323.252 Definitions. [M.S.A. 13.145(2)]

Sec. 2. As used in this act:

(1) "Low grade iron ore" means iron-bearing rock in the Upper Peninsula of this state which is not merchantable as ore in its natural state and from which merchantable ore can be produced only by beneficiation or treatment.

(2) "Low grade iron ore mining property" includes the ore beneficiation or treatment plant, other necessary buildings, facilities and lands located in the Upper Peninsula of this state.

(3) "Commission" means the state water resources commission.

323.253 Water permits; application, contents, hearing, notice, publication; findings. [M.S.A. 13.145(3)]

Sec. 3. The commission may grant permits for the drainage, diversion, control or use of water when necessary for the operation of a low grade iron ore mining property. The operator of the low grade iron ore mining property may make application for the permit to the commission in the form prescribed by the commission and which shall contain such in-

formation and data as may be prescribed by the commission in its rules and regulations. Not later than 60 days following receipt of any such application the commission shall fix the time and place for a public hearing thereon and shall publish notice of the hearing. The notice shall be published twice in each county involved in at least 1 newspaper of general circulation in the county. At the hearing the applicant and any other interested party may appear, present witnesses and submit evidence. Following the hearing, the commission may grant the permit and publish notice thereof in the manner provided for publication of notice of hearing, upon finding the following conditions:

(1) That the proposed drainage, diversion, control or use of waters is necessary for the mining of substantial deposits of low grade iron ore and that other feasible and economical methods of obtaining a continuing supply of water therefor are not available to the applicant;

(2) That the proposed drainage, diversion, control or use of waters will not unreasonably impair the interests of the public or of riparians in lands or waters or the beneficial public use thereof, and will not endanger public health or safety.

323.254 Same; liability of state. [M.S.A. 13.145(4)]

Sec. 4. Neither the state nor any of its officers, agents or employees shall incur any liability because of the issuance of a permit under this act or of any act or omission of the permittee, his agents or servants, under or in connection with any permit.

323.255 Same; duration. [M.S.A. 13.145(5)]

Sec. 5. Every permit granted shall be for such term as shall be necessary to permit the mining to exhaustion and beneficiation of all low grade iron ore referred to in the application but not to exceed 50 years. The commission may prescribe in the permit such time as it deems reasonable for the commencement or completion of any operations or construction under the permit or the exercise of the rights granted thereby. The original term of the permit or the time allowed for the performance of any condition thereof may be extended by the commission upon application of the permittee.

323.256 Same; contents; modification, hearing; violation, revocation; emergency order for abatement. [M.S.A. 13.145(6)]

Sec. 6. Every permit issued by the commission under the provisions of this act shall give to the permittee the right to use the water specified therein at such times, in such manner and in such quantity and under such circumstances as is specified therein, all subject to the conditions therein contained, and shall be irrevocable except for a breach or violation of the terms and conditions thereof. If the commission finds, upon consideration of the needs of the applicant, the public interest to be served by the use of the water by the applicant and all other facts relating to the use of the water, that the public interest requires the inclusion in the permit of a provision which will authorize modification or revocation thereof, then the commission may provide therefor by including in the permit the specific grounds upon which the permit may be modified or revoked by the commission in the public interest. No permit issued pursuant to this act shall be revoked for breach or violation of the terms and conditions thereof or be revoked or modified upon such other grounds as may be specified in the permit unless the permittee has been given an opportunity to be heard thereon after 30 days' written notice to the permittee. No permit shall be revoked for breach or violation of the terms and conditions thereof unless the permittee has been given an opportunity to correct or remedy the alleged breach or violation within a reasonable time and has failed to do so. Every notice shall specify the grounds for the proposed revocation or modification and, in the event of a proposed modification, the extent thereof. If violation of the conditions of a permit exists which in the judgment of the chairman of the commission so threatens the public interest in the waters involved as to require abatement without first giving 30 days' written notice to the permittee, he may issue an emergency order for abatement, which order shall have the same validity as if a 30 days' written notice had been given and the permittee granted a hearing. The emergency order shall remain in force no longer than 21 days from its effective date. Failure to comply with an emergency order constitutes grounds for revocation of the permit.

323.257 Administration of act; water resources commission, hearings. [M.S.A. 13.145(7)]

Sec. 7. (1) The authority to administer this act is hereby conferred upon the commission which shall be charged with the responsibility of enforcing the provisions hereof; and such authority shall be exercised by and through such officer or employee of the commission as the commission shall designate.

(2) At any hearing the commission or its duly authorized agents shall have power to administer oaths, to take testimony and compel the introduction of written evidence, to issue subpoenas and to compel the attendance of witnesses.

323.258 Rules and regulations; review of commission action. [M.S.A. 13.145(8)]

Sec. 8 The commission shall make rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and all proceedings under this act shall be in conformity with the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, and any interested person shall have the right of judicial review from any decision, order or permit made or granted by the commission in accordance with the provisions of said act.

LOCAL RIVER MANAGEMENT ACT

Act 253, 1964, p. 380; Eff. Aug. 28.

AN ACT to enable local units of government to cooperate in planning and carrying out a coordinated water management program in the watershed which they share.

The People of the State of Michigan enact:

323.301 Local river management act; short title. [M.S.A. 11.431]

Sec. 1. This act shall be known and may be cited as the "local river management act".

323.302 Same; definitions. [M.S.A. 11.432]

Sec. 2. As used in this act:

- (a) "Council" means a watershed council created under the terms of this act.
- (b) "District" means a river management district established under the terms of this act.
- (c) "Board" means a river management board created as the governing body of a river management district in accordance with the terms of this act.
 - (d) "Commission" means the state water resources commission.
 - (e) "Watershed" means the drainage area of a stream.
- (f) "Local governments" means cities, villages, counties, townships and charter townships
- (g) "Local agencies" means local governments, special districts or other legally constituted agencies of local government exercising powers which may affect water resources.
- (h) "River management" means the control of river flow by the operation of dams, reservoirs, conduits and other man-made devices in order to improve and expand the uses of the river for those who depend upon it for a variety of private and public benefits.
- (i) "Level of stream flow" means a measure of water quantity including the amount of water passing a designated point over a designated period and the levels of lakes which are an integral part of the surface drainage system of the watershed.

323.303 Watershed council; creation, organizational meeting, notice. [M.S.A 11.433]

Sec. 3. (1) To promote cooperation among local governments in river management, a watershed council shall be established by the commission upon a petition from 3 or more local governments lying wholly or partially in the watershed as defined in the petition. The

petition shall provide a statement of necessity, a description of general purposes and functions to be performed, a description of the area, including a map, and a list of all local governmental units, lying wholly or partly within the watershed, which shall be eligible for membership on the watershed council.

(2) Upon finding that the petition is in conformance with this statute the commission shall adopt an order establishing the council, schedule an organizational meeting, and notify all local governments eligible for membership by registered mail. The date for such meeting shall be not less than 60 nor more than 90 days after the date of mailing the notice.

323.304 Watershed council; membership, local or county representatives, appointment. [M.S.A. 11.434]

- Sec. 4. (1) The watershed council shall be composed of representatives of local governments within the watershed who shall be appointed and maintain membership in the council in the following manner:
- (a) Each local government using the river for water supply or waste disposal shall appoint 1 representative for each 20,000 population or fraction thereof. The governing body of each local government shall determine the method by which its representatives shall be selected.
- (b) Each county having 15% or more of its area in the watershed shall appoint 1 representative, and 1 additional representative for each 20,000 population or fraction thereof which aggregate total shall be computed from population of eligible townships not otherwise represented. Such townships shall be eligible under this section if they shall have 15% or more of their respective areas in the basin. The methods by which the county representatives are selected shall be determined by the county board of supervisors.
- (c) Any local agency wholly or partly within the basin may appoint a representative to the council upon a finding by the council that the agency is so affected by or concerned with the use and development of water resources in the basin as to warrant representation. If any township is represented under this subdivision, its population shall not be counted in determining the eligible total representatives of its county.

Term, eligibility to vote.

(2) Representatives on the watershed council shall be appointed for 2 years, but shall be subject to replacement at the pleasure of the appointing authority. No representative shall be eligible to vote on the council unless the local government he represents has met its financial obligations to the council.

River management boards.

(3) Representatives to the watershed council may also represent their local governments if so designated thereby on river management boards established in accordance with this act.

HISTORY: Am. 1066, p. 139, Act 119, Imd. Eff. June 23.

323.305 Same; bylaws, budget, annual meeting, officers. [M.S.A. 11.435]

Sec. 5. In carrying out its authorized functions, the council shall:

(a) Adopt bylaws which shall govern its operations.

- (b) Prepare an annual operating budget, including apportionment of costs to member governments.
- (c) Hold an annual meeting at which time it shall elect a chairman, vice chairman and secretary-treasurer, submit an annual report to the member governments and adopt an annual budget which constitutes the council's authorization of activities for the year.

323.306 Same; permissive powers. [M.S.A. 11.436]

Sec. 6. A watershed council may perform the following:

- (a) Conduct, or cause to be conducted, studies of the water resources of the watershed, including investigations of water uses, water quality and the reliability of the water resource.
 - (b) Prepare periodic reports concerning, among other things, trends in water use and

availability, emerging water problems and recommendations for appropriate public policies and programs necessary to maintain adequate water resources for the watershed area.

(c) Request the commission to survey the watershed for the purpose of determining minimum levels of stream flow necessary for health, welfare and safety as provided in sections 13 through 18

(d) Recommend the creation of a river management district or districts under the provisions of sections 7 through 12 when the need for river management seems to warrant such an action

(e) Advise agencies of federal, state and local governments as to the council's view of the watershed's problems and needs.

(f) Cooperate with federal, state and local agencies in providing stream gauges, water quality sampling stations, or other water resource data-gathering facilities or programs that aid the council in its responsibility for studying and reporting on water conditions.

(g) Employ an executive secretary and such other professional, administrative or clerical staff, including consultants, as may be provided for in an approved budget.

(h) Establish such subcommittees or advisory committees as are deemed helpful in the discharge of its functions

(i) Establish special project funds as needed to finance special studies outside its annual budget capacity and for this purpose the council may accept gifts and grants from private individuals, corporations and local, state or federal governments.

323.307 River management district; establishment, powers, consolidation, coordination. [M.S.A. 11.437]

Sec. 7. The governing bodies of any two or more local governments may petition the water resources commission to establish a river management district in order to provide an agency for the acquisition, construction, operation and financing of water storage and other river control facilities necessary for river management. The petition shall be accompanied by a statement of necessity, a description of the district purposes, functions and operating procedures, which shall include methods of financing capital improvements and of apportioning benefit charges, and a general plan of development. Not later than 60 days following receipt of such a petition the commission shall fix the time and place for a public hearing thereon and shall publish notice of the hearing. The notice shall be published twice in each county involved in at least 1 newspaper of general circulation in the county. At the hearing the applicant and any other interested party may appear, present witnesses and submit evidence. Following the hearing, the commission may adopt an order establishing the district and publish notice thereof in the manner provided for publication of notice of hearing, upon finding the following conditions:

(1) That the proposal is consistent with the public interest in the conservation, development and use of water resources, and the proposed district is geographically suitable to effectuation of the district purposes.

(2) That the establishment and operation of the district will not unreasonably impair the interests of the public or of riparians in lands or waters or the beneficial public use thereof, and will not endanger public health or safety.

No management district shall be created which affects any city now or hereafter having a population of more than 1,500,000 except with the concurrence of the governing body of this city.

Prior to approving the establishment of a district consisting of a portion of a river basin, the commission shall determine the feasibility of establishing the district to include the entire river basin or as large a portion of the basin as is possible. Approval of districts consisting of a portion of a river basin shall be on the basis that at such time as in the judgment of the commission it becomes feasible to form a district including the entire river basin, the river managements boards shall initiate proceedings to combine the smaller districts into larger districts or into an entire watershed-wide district.

Any plans for a river management district shall be coordinated with plans of adjacent river basins, organizations or agencies and with any comprehensive regional master programs for river management.

323.308 Same; organizational meeting, board, officers, membership, voting rights. [M.S.A. 11.438]

Sec. 8. Within 60 days after the adoption of an order establishing a district the commission shall schedule an organizational meeting of the district board and shall provide notice thereof by registered mail to the governing bodies of all local governments comprising the district. The date for such meeting shall be not less than 60 nor more than 90 days after the date of mailing the notice. At the meeting the executive secretary of the water resources commission shall serve as temporary chairman. The board shall elect a chairman, vice chairman, secretary and treasurer and adopt by-laws.

A district shall be governed by a river management board composed of representatives of local governments within the district. The representation of each local government on the board may be provided as part of the operating procedures submitted to the commission in the petition of local governments made in accordance with section 7. If the composition of the board is not so designated, representation shall be established under the provisions of

section 1

Representatives on the river management board shall be appointed for 2 years but shall be subject to replacement at the pleasure of the appointing authority. No representative shall be eligible to vote on the board unless the local government he represents has met its financial obligations to the district.

Representatives to the river management board may also serve as representatives of their local governments if so designated thereby on the watershed council.

323.309 Same; powers of board. [M.S.A. 11.439]

Sec. 9. A river management board may perform any of the following:

(a) Conduct continuing study of river use requirements and needs for river management within its area of jurisdiction; analyze alternative methods of meeting needs; and develop and adopt a river management program, including plans for constructing, operating and financing water storage and river control structures and negotiating coordinated policies

and programs relating to river use among local governments within the district.

(b) Impound and control the waters of the river system within the district, subject to minimum levels of stream flow established pursuant to sections 13 and 14, through acquisition, construction, maintenance and or operation of water storage reservoirs, dams or other river control structures as necessary to assure adequate quantity, quality and stability of river flow to protect the public health, welfare and safety. A river management district shall not release water in such an amount as to produce or increase flooding or otherwise damage downstream interests.

or department thereof or with other governmental agencies or with private individuals or corporations which may maintain and operate reservoirs and control structures or which may construct, maintain and operate new reservoirs and control structures as necessary to carry

out the purposes of this act.

(d) Perform, with respect to the area within the district, the functions assigned to a watershed council by sections 3 through 6 whenever a relevant watershed council has not been formed, or if the appropriate watershed council's failure to act impairs the functions and programs of a district.

323.310 Same; corporate powers; financing. [M.S.A. 11.440]

Sec. 10. A district formed under this act is a body corporate with powers to contract; to sue and be sued; to exercise the right of eminent domain; to apportion administrative costs and benefit charges for river management and related facilities among the local government members which costs shall be payable from general funds or taxes raised by the local governments; to collect revenues for services rendered by the exercise of its functions; to issue bonds; to apply for and receive grants, gifts and other devises from any governmental agency, or from the federal government; and to exercise such other powers as necessary to carry out the purposes of this act. The river management district shall have no direct taxing power.

323.311 Same; board, duties, bylaws, budgets, assessments, annual meeting, records. [M.S.A. 11.441]

Sec. 11. A river management board shall:

(a) Adopt bylaws to govern its operations,

- (b) Prepare an annual operating budget and levy an annual assessment of local government members to cover costs of organizing, developing plans and maintaining general overhead administration.
- (c) Adopt and maintain a schedule of benefit assessments upon local governments in the district levied to help defray the costs of capital improvements, which schedule, shall constitute a legal obligation upon those assessed.
- (d) Hold an annual meeting at which it shall report to its members and to the watershed council, elect officers and adopt an annual budget.
 - (e) Maintain a public record of its transactions.
 - (f) Do all other things necessary for the operation of the district.

323.312 Executive secretary, additional staff. [M.S.A. 11.442]

Sec. 12. The executive secretary of a watershed council may serve as executive secretary to the river management board. If no relevant watershed council exists, or if the executive secretary of a watershed council is otherwise unavailable, the board may employ an executive secretary. In addition, the board may employ such additional staff as it may determine within its approved budget.

323.313 Minimum level of stream flow; industrial use of water. [M.S.A. 11.443]

Sec. 13. Upon request of a council or a board, the commission shall determine, within the watershed subject to the council, the minimum level of stream flow necessary to safeguard the public health, welfare and safety, but no determination or order shall prevent any industry along the stream from using water from the stream for industrial use sufficient for the industry's requirement if all the water so used is returned to the stream within 72 hours of the taking.

323.314 Same; order of determination, notice, review. [M.S.A. 11.444]

Sec. 14. In carrying out its authority to determine minimum levels of stream flow, the commission, after public hearing, shall adopt an order of determination setting forth minimum levels at such locations as necessary to carry out the purposes of this act. Notice of such order of determination shall be published and the order may be reviewed in the circuit court in accordance with Act No. 197 of the Public Acts of 1952 upon petition filed by any person within 15 days following the last date of such publication.

323.315 Same; request to watershed council for determination. [M.S.A. 11.445]

Sec. 15. A river management board may request a watershed council to seek a determination of minimum levels of stream flow in accordance with sections 13 and 14, or the board may request the commission to make such determinations whenever no watershed council has been formed for the larger watershed of which the district is a part, or when an appropriately established council fails to act within 90 days upon the district's request.

323.316 Measurement of stream flow, lake levels, and water quality. [M.S.A. 11.446]

Sec. 16. The commission may maintain such gauges and sampling devices to measure stream flow, lake levels and water quality as are necessary to carry out the purposes of this act, and may enter at all reasonable times in or upon any public property for the purpose of inspecting and investigating conditions relating to carrying out the provisions of this act.

323.317 Water resources commission, approval of plan, supervision over functioning of district. [M.S.A. 11.447]

Sec. 17. The commission may cooperate and negotiate with any government, unit of government, agency thereof, or with any person in establishing and maintaining gauges and sampling devices to measure stream flow, lake levels or water quality or in carrying out any other provision of this act. When requested by a council or board, the commission shall provide technical advice and assistance in the preparation of a river management plan of the district. No river management plan shall be placed into effect until it shall have been approved by the commission as conforming to the stated objectives of the petition. The commission shall maintain supervision over the functioning of the district to the extent it deems necessary for the purpose of insuring conformance with the plan in the public interest.

323.318 Same; rules and regulations. [M.S.A. 11.448]

Sec. 18. The commission shall make rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

323.319 Same; powers under other acts not abridged. [M.S.A. 11.449]

Sec. 19. Nothing in this act shall be construed so as to abridge the authority vested in the commission by Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12 of the Compiled Laws of 1948. Permits granted by the commission in accordance with Act No. 143 of the Public Acts of 1959, being sections 323.251 to 323.258 of the Compiled Laws of 1948 shall not be affected by this act. The granting of future permits under Act No. 143 of the Public Acts of 1959 shall proceed without regard to anything contained in this act.

323.320 State health commissioner; powers unaffected. [M.S.A. 11.450]

Sec. 20. The functions, powers and duties of the state health commissioner as provided for by Act No. 98 of the Public Acts of 1913, as amended, being sections 325.201 to 325.214 of the Compiled Laws of 1948, shall remain unaffected by this act.

TAX EXEMPTIONS FOR WASTE TREATMENT

Act 222, 1966, p. 268; Imd. Eff. July 11.

AN ACT to provide for the exemption of water pollution control facilities from certain taxes.

The People of the State of Michigan enact:

323.351 Water pollution control facility; definitions. [M.S.A. 7.793(51) Sec. 1. As used in this act:

- (a) "Facility" means any disposal system, including disposal wells, or any treatment works, appliance, equipment, machinery or installation constructed, used or placed in operation primarily for the purpose of reducing, controlling or eliminating water pollution caused by industrial waste.
- (b) "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacture, trade or business, or from the development, processing or recovery of any paper or wood which is capable of polluting the waters of the state.
- (c) "Treatment works" means any plant, pumping station, incinerator or other works or reservoir used primarily for the purpose of treating, stabilizing, isolating or holding industrial waste.

(d) "Disposal system" means system used primarily for disposing of or isolating industrial waste and includes pipelines or conduits, pumping stations and force mains, and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial waste to a point of disposal, treatment or isolation except that which is necessary to the manufacture of products.

323.352 Tax exemption certificate; application, contents; approval; notice, hearing; tax exemption. [M.S.A. 7.793(52)]

Sec. 2. (1) An application for a water pollution control tax exemption certificate shall be filed with the state tax commission in such manner and in such form as may be prescribed by the commission. The application shall contain plans and specifications of the facility including all materials incorporated or to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of industrial waste pollution control together with the proposed operating procedure for the control facility.

(2) Before issuing a certificate the state tax commission shall seek approval of the water resources commission and give notice in writing by certified mail to the department of revenue and to the assessor of the taxing unit in which the facility is located or to be located, and shall afford to the applicant and the assessor an opportunity for a hearing. Tax exemption granted under this act shall be reduced to the extent of any commercial or productive value derived from any materials captured or recovered by any facility.

323.353 Inspection and findings of water resources commission; notice to tax commission; issuance and effective date of certificate. [M.S.A. 7.793(53)]

Sec. 3. If the water resources commission finds that the facility is designed and operated primarily for the control, capture and removal of industrial waste from the water, and is suitable, reasonably adequate and meets the intent and purposes of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948, he shall so notify the state tax commission who shall issue a certificate. The effective date of the certificate shall be the date of issue of the certificate.

323.354 Tax exemption certificate; effective date; duration. [M.S.A. 7.793(54)]

Sec. 4. (1) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, a facility covered thereby is exempt from personal property taxes imposed under Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948.

(2) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, tangible personal property which becomes affixed and made a structural part of the real estate of such facility shall be exempt from:

(a) Sales taxes imposed under Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948.

(b) Use taxes imposed under Act No. 94 of the Public Acts of 1937, being sections 205.91 to 205.111 of the Compiled Laws of 1948.

(3) This act shall not be construed to affect the industrial processing exemptions under the act referred to in subdivisions (a) and (b) of subsection (2).

(4) The certificate shall state the total acquisition cost of the facility entitled to exemption.

323.355 Same; issuance; mailing to applicant, local tax assessors and revenue department; filing; notice of refusal of certificate. [M.S.A. 7.793(55)]

Sec. 5. The state tax commission shall send a water pollution control tax exemption certificate, when issued, by certified mail to the applicant, and certified copies by certified mail to the assessor of the taxing unit in which any property to which the same relates is located or to be located and to the department of revenue, which copies shall be filed of record in their offices. Notice of the commission's refusal to issue a certificate shall be sent by certified mail to the applicant, to the department of revenue, and to the assessor.

323,356 Same; modification or revocation, grounds; notice and hearing; statute of limitations. [M.S.A. 7.793(56)]

Sec. 6. (1) The state tax commission, on notice by certified mail to the applicant and opportunity for a hearing, shall on its own initiative or on complaint of the water resource commission, the department of revenue or by the assessor of the taxing unit in which any property to which the certificate relates is located, modify or revoke the certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation.

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a facility or to operate the facility for the purpose and degree of control specified in the certification, or an amended certificate.

(c) The facility covered by the certificate is no longer used for the primary purpose

of pollution control and is being used for a different purpose.

(2) On the mailing by certified mail to the certificate holder, the department of revenue, and the local assessor of notice of the action of the state tax commission modifying or revoking a certificate, the certificates shall cease to be in force or shall remain in force only as modified. When a certificate is revoked because obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by applicable law. No statute of limitations shall operate in the event of fraud or misrepresentation.

323.357 Same; appeals. [M.S.A. 7.793(57)]

Sec. 7. A party aggreed by the issuance or refusal to issue, revocation or modification of a pollution control tax exemption certificate may appeal from the finding and order of the state tax commission in the manner and form and within the time provided by Act No. 197 of the Public Acts of 1952, as amended.

323.358 Rules and regulations. [M.S.A. 7.793(58)]

Sec. 8. The state tax commission may adopt such rules and regulations as it deems necessary for the administration of this act subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. These rules and regulations shall not abridge the authority of the water resources commission to determine whether or not industrial waste pollution control exists within the meaning of this act.

DEPARTMENT OF PUBLIC HEALTH

WATER ANALYSIS

Act 109, 1907, p. 132; Imd. Eff. May 22.

AN ACT to provide for the appointment of a bacteriologist by the state board of health; to provide for the purchase of the necessary appliances and apparatus for bacteriological examinations, and providing an appropriation therefor.

The People of the State of Michigan enact:

325.23 Bacteriological examinations and water analyses, upon request. [M.S.A. 14.23]

Sec. 3. The various boards of health, health officers, and all state institutions may require a bacteriological examination or analysis of blood, sputum, urine, water, milk, or other substance in localities where there is an outbreak of any contagious disease or epidemic in which bacteriological examination or analysis may be necessary to the public health and welfare, or for the purpose of locating sources of infection, or contamination of water, milk, ice, etc., as the case may be. The said state board of health shall also be required to make an examination and analysis of the water used by the public, and of public water supplies, when contamination is suspected, whenever the examination or analysis is required by the mayor of any city, the president of any village, or the supervisor of any township. Such boards or officers shall forward or deliver to the secretary of the state board of health a sample of the substance required to be analyzed, in a sealed package or jar accompanied by a statement from such board or officer, indicating the necessity for the analysis. The examination or analysis for the boards or officers above named shall be made free of charge.

HISTORY: Am. 1909, p. 278, Act 122, Imd. Eff. May 26;—CL 1915, 5003;—CL 1929, 6461;—Am. 1941, p. 72, Act 63, Eff. Jan. 10, 1942.

CONTROL OF WATERWORKS AND SEWAGE SYSTEMS

Act 98, 1913, p. 143; Eff. Aug. 14.

An act providing for the supervision and control by the state health commissioner over waterworks systems and sewerage systems, for the submission of plans and specifications for waterworks and/or sewerage systems and the issuance of construction permits therefor, for the supervision and control of such systems, for the classifying of water treatment plants, and sewage treatment works, for the examination, certification, and regulation of persons in charge of such water treatment plants and sewage treatment works, and providing penalties and defining liabilities for violations of this act.

The People of the State of Michigan enact:

325.201 Control over waterworks and sewerage systems by state health commissioner; governmental agencies defined. [M.S.A. 14.411]

Sec. 1. The state health commissioner is hereby given supervisory and visitorial power and control as limited in this act over all cities, villages, townships, counties and other governmental agencies, corporations both municipal and private, associations, partnerships and individuals engaged in furnishing water to the public for household or drinking purposes, and/or engaged in furnishing sewerage and/or sewage treatment service, or both, and over the plants and systems owned or operated by such cities, villages, townships, counties and other governmental agencies, corporations, associations, partnerships or individuals. The words "governmental agencies" as hereinafter used in this act shall be taken to mean and include cities, villages, townships, counties, metropolitan districts, or other units of government or the officers thereof now or hereafter authorized to own, construct and/or operate waterworks and/or sewerage systems to serve the public.

HISTORY: C.L. 1915, 5024;—C.L. 1929, 6662;—Am. 1949, p. 248, Act 219, Eff. Sept. 23. Title Am. 1941, p. 392, Act 239, Eff. Jan. 10, 1942;—Am. 1949, p. 248, Act 219, Eff. Sept. 23.

325.202 State health commissioner; inspection powers; waterworks, sewerage systems defined. [M.S.A. 14.412]

Sec. 2. The state health commissioner, his agents and representatives, shall have the power and authority to enter upon, at all reasonable times, the waterworks systems or sewerage systems, and other property of such governmental agencies, corporations, associations, partnerships or individuals, for the purpose of inspecting the same and carrying out the authority vested in him by this act. For the purpose of this act:

A waterworks system shall be defined as the system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing materials to the public for head and distributed and distributed as the purpose of furnishing materials.

furnishing water to the public for household or drinking purposes.

A sewerage system shall be defined as a system of pipes and structures including pipes, channels, conduits, manholes, pumping stations, sewage or waste treatment works, diversion and regulatory devices, outfall structures, and appurtenances, collectively or severally, actually used or intended for use by the public for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or other industrial liquid wastes of such a nature as to be capable of adversely affecting the public health.

HISTORY: C.L. 1915, 5025; C.L. 1929, 6663; Am. 1949, p. 248, Act 219, Eff. Sept. 23.

325.203 Waterworks, sewerage, and filtration plants; rules and regulations; examination, etc., of operators; orders to cleanse; classification of sewage treatment works; operators, examination. [M.S.A. 14.413]

Sec. 3. (a) The state health commissioner shall have authority to make and enforce such rules and regulations as he may deem necessary, governing and providing a method of conducting and operating the entire or any part of the systems of waterworks, including the filtration plants, owned or operated by such governmental agencies, corporations, associations, partnerships or individuals. The state health commissioner shall classify water treatment plants with due regard to the size, type, location, and other physical conditions affecting such plants and according to the skill, knowledge, experience, and character that the person in active operating charge must have to successfully operate said plants and to maintain the public health. The state health commissioner shall examine persons as to their qualifications to operate such plants and issue and revoke certificates for such persons, adopt rules and regulations regarding the classification of such plants and the examinations for certificates for the operators of such plants and for the issuance and revocation of such certificates. Every water treatment plant subject to the provisions of this act shall, within 30 days after the effective date of this act or within such longer period as the state health commissioner shall prescribe, be under the supervision of a properly certified operator: Provided, however, That nothing herein contained shall prevent such governmental agencies, corporations, associations, partnerships and individuals from continuing to employ in such capacity any person now in responsible charge of the operation of a water treatment plant, as provided in this section. And said state health commissioner shall, in addition to the other powers herein vested in him, whenever he shall deem it necessary for the protection of health, have authority to direct such governmental agencies, corporations, associations, partnerships or individuals operating waterworks systems to cleanse any portion of such systems, to make such structural changes in existing systems as may be necessary to produce pure and wholesome water, and to operate the same in such manner as to furnish a pure and wholesome water.

(b) The state health commissioner shall have authority to make and enforce such rules and regulations as he may deem necessary governing and providing a method of conducting and operating the entire or any part of sewerage systems including sewage treatment works, owned or operated by such governmental agencies, corporations, associations, partnerships or individuals. The state health commissioner shall classify sewage treatment works with due regard to size, type, location and other physical conditions affecting such works and according to the skill, knowledge, experience and character that the person in active operating charge must have to successfully operate said works, so as to prevent the discharge

therefrom of deleterious matter capable of being injurious to the health of the people, or to other public interests. The state health commissioner shall examine persons or cause them to be examined as to their qualifications to operate such works. He shall with the concurrence of the state council of health make and declare rules and regulations regarding the classification of such works, the examinations for certification of operators for such works and the issuance and revocation of such certificates, and shall issue and revoke certificates in accordance therewith. Every sewage treatment works subject to the provisions of this act shall within 30 days after the effective date of this act, or within such longer periods as the state health commissioner shall prescribe, be under the supervision of a properly certified operator: Provided, however, That nothing herein contained shall prevent governmental agencies, corporations, partnerships and individuals from continuing to employ in such capacity any persons now in responsible charge of the operation of a sewage treatment works: And provided further, That nothing herein contained shall require the employment of a certified operator in a waste treatment works receiving exclusively wastes not potentially prejudicial to the public health.

HISTORY: C.L. 1915, 5026;—C.L. 1929, 6664;—Am. 1941, p. 392, Act 239, Eff. Jan. 10, 1942;—Am. 1949, p. 248, Act 219, Eff. Sept. 23.

325.204 Contaminated water; investigation, examination, evidence. [M.S.A. 14.414]

Sec. 4. Whenever the mayor of a city, president of a village, supervisor of a township, health officer or representative of the state health commissioner has reason to believe that the water furnished by any governmental agency, corporation, association, partnership or individual is contaminated, then it shall be the duty of the state health commissioner, upon the request of such officer, to investigate the same and to determine by laboratory analysis the condition of said water, and the certificate of the state bacteriologist showing result of such analysis shall be prima facie evidence of the matters stated in such certificate and also as to the source of the water and the time and place of taking, and of all matters that may be stated in said certificate.

HISTORY: C.L. 1915, 5027; C.L. 1929, 6665; Am. 1949, p. 249, Act 219, Eff. Sept. 23.

325.205 Same; expenses of investigation. [M.S.A. 14.415]

Sec. 5. The expenses of the investigation and analysis made by the state health commissioner shall be borne by the locality, and shall be paid for at the rate of \$10.00 per day and necessary traveling expenses not to exceed \$15.00 while making such investigation and analysis, and shall constitute a charge against the governmental agency, corporation, association, partnership or individual owning or operating the water system, when such investigation reveals conditions dangerous to the public health and contrary to the established regulations; the said per diem to be deposited with the state treasury and placed in the general fund.

HISTORY: C.L. 1915, 5028;—C.L. 1929, 6666;—Am. 1949, p. 250, Act 219, Eff. Sept. 23.

325.206 Waterworks or sewerage systems; plans and specifications, contents, certification and filing; permit for construction; rules and regulations; misdemeanor. [M.S.A. 14.416]

Sec. 6. It shall be the duty of the mayor of each city, the president of each village, the township supervisor, the responsible executive officer of any governmental agency, and of all corporations, associations, partnerships or individuals now or hereafter operating waterworks or sewerage systems in this state, to file with the state health commissioner a true and correct copy of the plans and specifications of the entire system owned or operated by such governmental agency, corporation, association, partnership or individual, including such filtration or other purification plant or treatment works as may be operated by them in connection therewith, and also plans and specifications of all alterations, additions or improvements to such systems which may be made from time to time. The plans and specifications herein referred to shall, in addition to all other things, show all the sources through or from which water is or may be at any time pumped or otherwise permitted or caused to enter into such system, and such drain, water course, river or

lake into which sewage is to be discharged. Such plans and specifications shall be certified by the mayor and city engineer of city corporations, by the president and engineer, if one is employed, for village corporations, and by such proper officer and the engineer employed by any other governmental agency, association or a private corporation for the governmental agency, association, or private corporations, and by some individual member of a partnership, or by the individual owner in case of a waterworks or sewerage system owned and operated by partnerships or individuals, including the engineer employed if any. Before commencing the construction of any waterworks system, sewerage system, filtration or other purification plant or treatment works or any alteration, addition or improvement to such system or plant which may be undertaken from time to time, it shall be the duty of the mayor of each city, the president of each village and the responsible official of all other governmental agencies, associations, private corporations, and partnerships or individuals to submit the plans and specifications of the same to the state health commissioner and secure from the said state health commissioner a permit for the construction of the same. The state health commissioner with the concurrence of the advisory council of health may make and enforce rules and regulations regarding the preparation and submission of such plans and specifications and for the issuance and period of validity of construction permits for such work. It shall be unlawful for any contractor, builder, governmental agency, corporation, association, partnership or individual to engage in or commence the construction of any waterworks system, sewerage system, filtration or other purification plant or treatment works or any alteration, addition or improvement thereto until a valid permit for the construction of the same has been secured from the state health commissioner. It shall be unlawful for any official of the governmental agency. corporation, association, or partnership, or for any individual to issue any voucher, check or in any other way expend moneys of the governmental agency, corporation, association. partnership or individual for such construction unless a valid permit for the same, issued by the state health commissioner, is in effect. Any municipal officer, officer or agent of a governmental agency, corporation, association, partnership, or individual who shall permit or allow construction to proceed without such valid permit, or in a manner not in accordance with the plans and specifications approved by the state health commissioner, shall be guilty of a misdemeanor.

H1STORY: C. I. 1915, 5029;—C. I. 1929, 6667;—Am. 1931, p. 192, Act 123, Eff. Sept. 18;—Am. 1937, p. 121, Act 89, Eff. Oct. 29;—Am. 1949, p. 250, Act 219, Eff. Sept. 23.

325.207 Plans and specifications, definition. [M.S.A. 14.417]

Sec. 7. The words "plans and specifications" as used in this act shall be construed to mean a true description or representation of the entire systems, or parts thereof, proposed or operated by such governmental agency, corporation, association, partnership or individual, as the same exists or is to be constructed, and also a full and fair statement of how the same is to be operated.

HISTORY: C.I. 1915, 5030;—C.I. 1929, 6668;—Am. 1931, p. 193, Act 123, Eff. Sept. 18;—Am. 1949, p. 251, Act 219, Eff. Sept. 23.

325.208 Water or sewage treatment works, reports; perjury. [M.S.A. 14.418]

Sec. 8. In case of governmental agencies, corporations, associations, partnerships, or individuals operating water treatment plants or sewage treatment works, it shall be the duty of such governmental agencies, corporations, associations, partnerships or individuals to file with the state health commissioner such reports under oath as may be required from time to time. Such reports shall be sworn to by any responsible officer or person acquainted with the facts and employed by such governmental agency, corporation, association, partnership or individual at the time of making said report. Any person making a false statement in such report shall be deemed guilty of and subject to the penalty of periury.

HISTORY: C.L. 1915, 5031;—C.L. 1929, 6669;—Am. 1931, p. 193, Act 123, Eff. Sept. 18;—Am. 1949, p. 251, Act 219, Eff. Sept. 23.

Sec. 9.

HISTORY: C L 1915, 5032;—C L 1929, 6670, C L 1948, 325.208;—Rep. 1949, p. 252, Act 219, Eff. Sept. 23.

325.210 Inspection by state health commissioner; recommendations and orders. [M.S.A. 14.420]

Sec. 10. It shall be the duty of the state health commissioner on receipt of the plans and specifications of such waterworks and sewerage systems to inspect the same with reference to their adequacy to protect the public health, and if the public water supply of any such city or village is impure and dangerous to individuals or to the public generally, it shall be his further duty to inspect the said waterworks or sewerage systems or any parts thereof and the manner of operation. If upon such inspection he finds said plans and specifications or the waterworks or sewerage systems to be inadequate or so operated as not to adequately protect the public health he may order the governmental agency, corporation, association, partnership or individual owning and/or operating the same to make such alterations in such plans and specifications or in such waterworks or sewerage systems or the method of operation thereof as may be required or advisable in his opinion, in order that the water supply may be healthful and free of pollution and the sewage not potentially prejudicial to the public health. Such recommendations or orders of the state health commissioner shall be served in writing upon such governmental agencies, corporations, associations, partnerships or individuals, and it shall thereupon be the duty of such governmental agencies, corporations, associations, partnerships or individuals to comply with such recommendations or orders.

HISTORY: C.L. 1915, \$033: - C.L. 1929, 6671; - Am. 1949, p. 251, Act 219, Eff. Sept. 23.

325.211 Sewerage systems; planning, construction and operation; counsel with governmental agencies; agent for stream control commission; cooperation. [M.S.A. 14.421]

Sec. 11. The state health commissioner shall exercise due care to see that sewerage systems are properly planned, constructed and operated so as to prevent unlawful pollution of the streams, lakes and other water resources of the state. He shall counsel with governmental agencies, corporations, associations, partnerships and individuals owning and/or operating sewerage systems or any parts thereof when disputes between public agencies over sewerage service or sewage treatment rates occur and may act as arbitrator in such cases when called upon so to do by a majority of the parties to the controversy. He shall act as agent for the stream control commission when requested so to do. He shall cooperate with appropriate federal or state agencies in the determination of grants of assistance for the preparation of plans and/or for the construction of waterworks systems, sewerage systems or waste treatment projects.

HISTORY: C.L. 1915, 5034;—Am. 1921, p. 730, Act 398, Eff. Aug. 18;—C.L. 1929, 6672;—Am. 1949, p. 251, Act 219, Eff. Sept. 23.

325.212 Engineers and other assistants; appointment. [M.S.A. 14.422]

Sec. 12. The state health commissioner is hereby authorized and empowered to employ engineers, and such other assistants as may be necessary, to administer the provisions of this act.

HISTORY: C.L. 1951, 5035;—C.L. 1929, 6673;—Am. 1933, p. 57, Act 60, Imd. Eff. Apr. 14;—Am. 1949, p. 252, Act 219, Eff. Sept. 23.

325.213 Penalty; prosecutions. [M.S.A. 14.423]

Sec. 13. Any person found guilty of violating any of the provisions of this act, or any written order of the state health commissioner, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25.00 nor more than \$100.00, and costs of prosecution, or by imprisonment in the county jail not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purpose of this act. It shall be the duty of the attorney general to take care of and prosecute all cases arising under the provisions of this act, including the recovery of penalties.

HISTORY: C.I. 1915, 5036;—Am. 1921, p. 730, Act 298, Eff. Aug. 18;—C.I. 1929, 6674;—Am. 1949, p. 252, Act 219, Eff. Sept. 23. Sec. 13 of this act as originally enacted read as follows: "Act number twenty-eight of the public acts of nineteen hundred nine is hereby repealed."

325.214 Actions. [M.S.A. 14.424]

Sec. 14. The state health commissioner shall be authorized to bring any appropriate action in the name of the people of the state of Michigan, either at law or in chancery, as may be necessary to carry out the provisions of this act and to enforce any and all laws, rules and regulations relating to the provisions of this act.

HISTORY Add. 1949, p. 252, Act 219, Eff. Sept. 23.

WATER WELL DRILLING

Act 294, 1965, p. 566; Eff. Mar. 31, 1966.

AN ACT to protect the public health; to regulate the drilling of water wells and the installation of well pumps; to register and regulate water well drillers and well pump installers; to provide drilling records for the department of conservation; to prescribe the powers and duties of the state health commissioner; to create an advisory board; to prescribe penalties for violations of this act; and to provide an appropriation therefor.

The People of the State of Michigan enact:

325.221 Water well drilling; definitions. [M.S.A. 17.426(1)]

Sec. 1. As used in this act:

(a) "Commissioner" means the state health commissioner.

(b) "Health department" means a district, county or city health department authorized by the commissioner to enforce this act and the rules, regulations and construction code adopted under this act.

(c) "Well" means an opening in the surface of the earth for the purpose of removing

fresh water or a test well, recharge well or waste disposal well.

- (d) "Well drilling contractor" means an individual, firm, partnership or corporation qualified to engage in well construction and pump installation, who supervises the construction of water wells and the installation of pumps, and owns, rents or leases equipment used in the construction of water wells.
 - (e) "Pump" means a mechanical equipment or device used to remove water from a well.
- (f) "Pump installer" means a person who is qualified to engage in the installation, removal, alteration or repair of water well pumping equipment in connection with any water well.

325.222 Wells and pumps excepted from act. [M.S.A. 17.426(2)]

Sec. 2. A well, pump or other equipment used for the relief of artesian pressure at hydroelectric projects, or used temporarily for dewatering purposes during construction, or for use associated with the drilling of oil, gas, or brine wells, is excepted from this act.

325.223 Private wells or pumps; drilling record. [M.S.A. 17.426(3)]

Sec. 3. Nothing in this act shall prevent a person from constructing a well or installing a pump on his own or leased property intended for use only in a single family house which is his permanent residence, or intended for use only for farming purposes on his farm, and where the waters to be produced are not intended for use by the public or in any residence other than his own. Such person shall submit the drilling record required by section 11 and comply with any rule, regulation or construction code adopted under this act.

325.224 Licensed master plumber; equipment installation. [M.S.A. 17.426(4)]

Sec. 4. This act shall not restrict a master plumber licensed under the provisions of Act No. 266 of the Public Acts of 1929, as amended, being sections 338,901 to 338,917 of the Compiled Laws of 1948, from engaging in his legally recognized trade. A licensed master plumber may perform the work of a pump installer prescribed in this act, or rules, regulations and construction code adopted under this act without a certificate of registration as a pump installer under this act.

325.225 Certificates of registration; application; fees. [M.S.A. 17.426(5)]

Sec. 5. After May 1, 1966 a person, before engaging in the business of well drilling or pump installing, shall obtain a certificate of registration annually as a well drilling contractor or pump installer, using an application blank prepared by the commissioner. The applicant shall pay a registration fee with his application as follows: The initial registration fee and the annual renewal registration fee for a well drilling contractor is \$40.00 and for a pump installer is \$25.00. A well drilling contractor shall pay an additional annual fee of \$10.00 for each additional drilling machine. A registered well drilling contractor may do any of the work of a pump installer without payment of the fee for a pump installer.

325.226 Certificates of registration; well drilling contractors and pump installers; transferal; expiration and renewals; fees. [M.S.A. 17.426(6)]

Sec. 6. The commissioner shall issue certificates of registration for well drilling contractors and pump installers who meet the requirements of this act. A certificate of registration is not transferable and expires on April 30 of each year. After July 1 of each year a certificate of registration may be renewed only upon application for renewal and payment of a fee of \$5.00 in addition to the regular registration fee.

325.227 Well drilling contractors or pump installers examinations; eligibility; examination of firm employees. [M.S.A. 14.426(7)]

Sec. 7. Until May 1, 1967, a well drilling contractor or pump installer with 2 years of experience in the work shall be registered without examination. Thereafter a new applicant for a certificate of registration shall be examined in accordance with rules, regulations and construction code adopted under this act. The advisory board created by section 15 shall determine and advise the commissioner as to the eligibility of any well drilling contractor or pump installer for registration. A well drilling contractor or pump installer which is a firm, partnership or corporation shall designate at least 1 partner, officer or responsible full-time employee to take the examination on its behalf.

325.228 Certificate of registration; issuance, reciprocity provisions. [M.S.A. 14.426(8)]

Sec. 8. The commissioner, upon application therefor and payment of the fees provided in section 5, may issue a certificate of registration as a well drilling contractor or a pump installer to any person who holds a similar certificate of registration in any state, territory or possession of the United States, or any foreign country, if the requirements for the registration of a well drilling contractor and pump installer under which the certificate of registration was issued do not conflict with the provisions of this act, are of a standard not lower than that specified by rules, regulations and construction code adopted under this act, and if equal reciprocal privileges are granted to a registrant of this state.

325.229 Local government units; exemptions. [M.S.A. 14.426(9)]

Sec. 9. A county, city, village, township or other governmental unit engaged in well drilling or pump installing shall be registered under this act, but shall be exempt from paying the registration fees if the drilling or installing is done by regular employees of, and with equipment owned by, the governmental unit and the work is on wells or pumps intended for use by the governmental unit.

325.230 Placement of registration number; titles. [M.S.A. 14.426(10)]

Sec. 10. A well drilling contractor shall place in a conspicuous location on both sides of his well drilling machine his registration number in letters not less than 2 inches high. A seal furnished by the commissioner designating the year the certificate of registration was issued or renewed and the words "Michigan registered water well drilling contractor" shall be affixed directly adjacent to the registration number.

325.231 Record of completed wells; content; copies, transmission; standard forms. [M.S.A. 14.426(11)]

Sec. 11. Within 60 days after the completion of a well, a well drilling contractor shall provide the owner with a copy and the commissioner, or health department, with 2 copies of a record indicating the well owner's name, location of the well, well depth, geologic materials and thicknesses of materials penetrated, amount of casing, static water levels and any other information which may be required by the rules, regulations and construction code adopted under this act. The commissioner or health department shall send 1 copy of the record to the director of conservation within 30 days after its receipt from the well drilling contractor. Standard forms for the record shall be provided by the commissioner or the contractor's forms may be used if approved by the commissioner. A record for a drive point well where no earth materials are removed from the well bore is sufficient if the owner's name, well location, depth, casing static water level and screen data are indicated.

325.232 Inspection; hours, access to property. [M.S.A. 14.426(12)]

Sec. 12. The commissioner or health department may enter and inspect, at reasonable hours, on public or private property, any installation for the development of ground water supplies.

325.233 Violation of act; rules and regulations; correction. [M.S.A. 14.426(13)]

Sec. 13. When the commissioner or health department determines that there are reasonable grounds to believe there has been a violation of this act or any rule, regulation or construction code adopted under this act, he or the health department shall investigate the violation. If the commissioner or health department establishes that a violation has been committed, he or the health department shall order the responsible person to make the proper corrections.

325.234 Suspension of certificate of registration; notice; hearing; filing petition. [M.S.A. 14.426(14)]

Sec. 14. When the commissioner finds that the holder of a certificate of registration has engaged in practices that are in violation of this act or any rule, regulation, construction code or order issued pursuant to this act, the commissioner may give notice in writing to the holder of the certificate of registration that his certificate of registration has been suspended. A person who has received notice from the commissioner that his certificate of registration has been suspended shall be granted upon his request a hearing before the commissioner or his authorized representative. If a petition for a hearing is not filed within 30 days after the day on which the certificate of registration was suspended, the certificate of registration is automatically revoked.

325.235 Advisory board; members; appointment; geographic regions; descriptions. [M.S.A. 14.426(15)]

Sec. 15. An advisory board of 9 members is created composed of the following: 5 members who are residents of this state registered under the provisions of this act. at least 4 of whom are well drilling contractors, and who shall be appointed by the governor with the advice and consent of the senate; an employee of the division of engineering of the state department of health and a representative of a health department, each to be appointed by the commissioner; an employee of the geological survey section of the department of conservation appointed by the director of conservation; and an employee of the water resources commission appointed by the executive secretary of the water resources commission. Of 4 well drilling contractors 1 shall be from each of 4 geographic regions. Region 1: The Upper Peninsula; region 2: That part of the Lower Peninsula bordered on the south by Oceana, Newaygo, Mecosta, Isabella, Midland and Bay counties and the area north of such counties; region 3: The area bordered on the north and west by Huron.

Tuscola, Saginaw, Shiawassee, Livingston, Washtenaw and Lenawee counties and the area south and east of such counties; region 4: The area bordered on the east and north by Hillsdale, Jackson, Ingham, Clinton, Gratiot, Montcalm, Kent and Muskegon counties and the area south and west of such counties.

325.236 Advisory board; terms of office; appointments filling vacancies. [M.S.A. 14.426(16)]

Sec. 16. Each member of the board shall be appointed for a 3-year term. The terms of the 5 members registered under this act shall alternate so that not more than 2 are appointed each year, except that at the first appointment 1 shall be appointed for 1 year and 2 each shall be appointed for 2 and 3 years. The member from the state department of health shall be appointed for 3 years. The terms of the members representing the department of conservation, the water resources commission, and the health department shall alternate so that only 1 is appointed each year, except that at the first appointment 1 member shall be appointed for 1 year, 1 for 2 years and 1 for 3 years. Vacancies shall be filled by appointment for the unexpired terms by the respective officials designated in section 15.

325.237 Advisory board; election of officers; meetings, examinations of candidates for registration; quorum; expenses; compensation. [M.S.A. 14.426(17)]

Sec. 17. The members of the advisory board, as soon as appointed, shall organize and elect from their number a chairman. Thereafter, annually when new members are appointed to the board, a chairman shall be elected at the next board meeting. The member from the state department of health shall be the secretary of the board. The board shall hold at least 1 meeting each year for the purpose of examining candidates for registration. Additional meetings may be called by the chairman or commissioner as may be reasonably necessary to carry out the provisions of this act. Five members shall constitute a quorum. The members of the board shall be reimbursed for their actual and necessary expenses incurred while performing their official duties. The members of the board registered under the provisions of this act shall be compensated in the amount of \$25.00 for each meeting attended. No more than \$600.00 per year shall be paid to each member as compensation for attendance at meetings.

325.238 Rules and regulations. [M.S.A. 14.426(18)].

Sec. 18. The commissioner, with the advice of the advisory board and with the concurrence of the state council of health and in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, shall make such rules, regulations and construction code as are reasonably necessary to carry out the intent of this act. The rules, regulations and construction code shall include, but are not limited to, provisions for qualifications and examination of well drilling contractors and pump installers, standards for the construction and installation of developments of ground water supplies, abandonment of wells, and for the administration of this act.

325.239 Violation of act; misdemeanor. [M.S.A. 14.426(19)]

Sec. 19. Any person who is convicted of a violation of any provision of this act or any rule, regulation or construction code adopted under this act or any order of the commissioner or health department is guilty of a misdemeanor.

325.240 Appropriation; expenditures. [M.S.A. 14.426(20)]

Sec. 20. There is hereby appropriated from the general fund the sum of \$30,000.00 for the year ending June 30, 1966 to be used to enforce the provisions of this act. It is the intent of the legislature that the expenditures shall not exceed 75% of the revenue collected under the provision of this act.

RAILROAD PASSENGER COACHES

Act 210, 1909, p. 375; Eff. Sept. 1.

 ΔN ACT to provide for sanitary conditions in railroad passenger coaches and in railroad depots and vessels.

The People of the State of Michigan enact:

325.303 Railroad passenger coaches; drinking water, ice, tanks. [M.S.A. 14.442]

Sec. 3. Every passenger coach, except those used in commuter service, shall be provided with a supply of good, wholesome drinking water. When ice is used to cool the water, it shall be kept in a separate receptacle. These tanks shall be thoroughly cleaned at the terminus of every trip, and shall be kept constantly covered.

HISTORY: CL 1015, 5171; Cl. 1020, 6681; Am. 1960, p. 167, Act 134, Eff. Aug. 17.

325.304 Toilets and closets, cleaning. [M.S.A. 14.443]

Sec. 4. All toilet rooms, water closets, urinals and toilet appliances in railway coaches and depots are to be scrubbed with soap and hot water and disinfected with an approved disinfectant each day. All closets (outhouses) at railway stations shall be kept clean and in good repair to be suitable at all times for the use of the traveling public. The vaults shall receive a daily treatment of fresh lime or other approved disinfectant, and the contents removed at least once each month.

HISTORY: C.L. 1915, 5172;-C.L. 1929, 6682.

325.306 Same; urinals and closets, sterilization, approval. [M.S.A. 14.445]

Sec. 6. Every passenger coach, except those used in commuter service, operating in the state, and every vessel navigating upon the rivers and inland lakes of the state, or entering her lake harbors, shall be provided with urinals and closets of such form as will secure the sterilization of all discharges entering them; and the same shall be known as the "aseptic closet and urinal". The form of the urinal and closet, including the method of sterilization, shall have the approval of the state department of health before adoption. HISTORY: CL 1915, 5174;—CL 1929, 6684;—Am. 1960, p. 167, Act 134, Eff. Aug. 17.

PUBLIC SWIMMING POOLS

Act 230, 1966, p. 301; Eff. Jan. 1, 1967.

AN ACT to protect the public health; to place responsibility on the department of public health for supervising the construction and the healthful and safe operation of public swimming pools; to provide for the issuance of construction and operation permits; to authorize rules and regulations to carry out the intent of the act; and to provide penalties and remedies.

The People of the State of Michigan enact:

325.601 Public swimming pool; definitions; exemptions. [M.S.A 14.447(1)]

Sec. 1. A public swimming pool is an artificial body of water used collectively by a number of persons primarily for the purpose of swimming, recreational bathing or wading, and includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the swimming pool such as equipment, dressing, locker, shower and toilet rooms. Public swimming pools include but are not limited to those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, trailer coach parks, subdivisions and the like. Pools and portable pools located on the same premises with a 1, 2, 3 or 4 family dwelling and for the benefit of the occupants and their guests, natural bathing areas such as streams, lakes, rivers or man-made lakes, exhibitor's swimming pools built as models at the site of the seller and in which swimming by the public is not permitted, or pools serving not more than 4 motel units are exempt from this act.

325.602 Department of public health; review of design; supervision, construction and operation of public swimming pools. [M.S.A. 14.447(2)]

Sec. 2. The department of public health shall review the design and supervise the construction and operation of public swimming pools in order to protect the public health, prevent the spread of disease and prevent accidents or premature deaths.

325.603 Supervisory and visitorial power of department. [M.S.A. 14.447(3)]

Sec. 3. The department of public health has supervisory and visitorial power and control as limited in this act over all municipal and private corporations, governmental agencies, associations, partnerships and individuals engaged in the construction and operation of public swimming pools.

325.604 Inspection by state or local health departments. [M.S.A. 14.447(4)]

Sec. 4. The department of public health, its agents or representatives or representatives of designated city or county or district health departments may enter upon at all reasonable times the swimming pool premises and other property of such governmental agencies, corporations, associations, partnerships or individuals for the purpose of inspecting the same and carrying out the authority vested in him by this act.

325.605 Rules and regulations. [M.S.A. 14.447(5)]

Sec. 5. The department of public health may promulgate rules and regulations to carry out the provisions of this act. All rules and regulations shall be promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

325.606 Construction or modification of pools; plans and specifications; fees; permit; compliance with local codes; maintenance of nuisance or hazard. [M.S.A. 14.447(6)]

Sec. 6. (1) All municipal and private corporations, governmental agencies, associations, partnerships or individuals intending to construct a public swimming pool or intending to modify an existing public swimming pool shall submit plans and specifications for the proposed installation accompanied by a fee of \$50.00 to the department of public health for review and approval and shall secure a permit for the construction of the same and any contractor, builder, corporation, partnership, governmental agency, association or individual shall not start or engage in the construction of a public swimming pool or to modify an existing public swimming pool until the permit for construction of the same has been issued by the department of public health.

(2) Nothing in this act nor any action of the department of public health shall relieve the applicant or owner of a public swimming pool from responsibility for securing any building permits or complying with all applicable local codes, regulations or ordinances not in conflict with this act. Compliance with an approved plan shall not authorize the owner constructing or operating a public swimming pool to create or maintain a nuisance or a hazard to health or safety.

325.607 Plans and specifications, contents. [M.S.A. 14.447(7)]

Sec. 7. Plans and specifications submitted for the purpose of obtaining a construction permit shall include a true description of the entire swimming pool system and auxiliary structures or parts thereof as they are proposed to be constructed and operated.

325.608 Plans and specifications, examination by department; approval or denial; amendments; resubmission; validity of permit; extension. [M.S.A. 14.447(8)]

Sec. 8. (1) The department of public health shall examine the plans and specifications and determine whether the pool facilities, if constructed in accordance therewith, are or would be sufficient and adequate to protect the public health and safety. If the plans and specifications are approved, the department of public health shall issue a permit for construction. If the plans and specifications are not approved, the department of public health shall notify the applicant of the deficiencies. The applicant may have the plans and specifications amended to remedy the deficiencies and resubmit the documents, without additional fee, for further considerations.

(2) A construction permit shall be valid for a period not to exceed 2 years from the date of issuance unless an extension of time is granted in writing by the department of public health.

325.609 Pool to be constructed or modified in accordance with approved plans; changes. [M.S.A. 14.447(9)]

Sec. ⁰. Each public swimming pool shall be constructed or modified in accordance with the approved plans and specifications unless written approval of changes is granted by the department of public health.

325.610 Operation permits; fee; display; expiration date; renewal permit, fee; transfer of permit; fee. [M.S.A. 14.447(10)]

Sec. 10. All municipal and private corporations, governmental agencies, associations, partnerships or individuals engaged in the operation of a public swimming pool shall obtain a permit to operate the swimming pool from the department of public health and shall pay an initial operation permit fee of \$50.00. Operation permits shall be displayed by the owner in a conspicuous place on the premises. Operation permits expire December 31 of each year. A swimming pool operation permit shall be renewed upon receipt of a proper application, an annual renewal fee of \$10.00 and evidence that the swimming pool is being operated and maintained in accordance with the provisions of this act and the rules and regulations. Operation permits shall not be transferred to another person without the express written consent of the department of public health and upon payment of a \$10.00 transfer fee.

325.611 Pools in operation under permit issued prior to effective date of act; fees. [M.S.A. 14.447(11)]

Sec. 11. All municipal and private corporations, governmental agencies, associations, partnerships or individuals engaged in the operation of a public swimming pool, prior to the effective date of this act, under a class 1 operation permit issued by the department of public health pursuant to the regulation entitled "operation and use of public swimming pools", being regulation R325,401 to R325,406 of the 1954 state administrative code, shall be granted a permit to operate the pool as required by section 10 without payment of the initial operation permit fee. Thereafter, renewal fees shall be paid.

325.612 Prohibited operation without operation permit. [M.S.A. 14.447(12)]

Sec. 12. After the effective date of this act, no public swimming pool may be operated without an operation permit.

325.613 Improperly constructed pools; notice of deficiencies; failure to correct. [M.S.A. 14.447(13)]

Sec. 13. If upon investigation, the department of public health finds that a public swimming pool has not been constructed in accordance with the approved plans and specifications, it shall notify the applicant in writing that the operation permit will not be issued, citing the deficiencies or noncomplying items that constitute the reasons for not issuing the operation permit. If the applicant fails to correct the deficiencies or noncomplying items, he shall be denied an operation permit.

325.614 Periodic inspections by state or local health departments. [M.S.A. 14.447(14)]

Sec. 14. The department of public health, its agents or representatives, or representatives of designated city or county or district health departments shall make periodic inspections of all public swimming pools.

325.615 Revocation of operation permit; hearings; reissuance of permit. [M.S.A. 14.447(15)]

Sec. 15. The department of public health may revoke the operation permit if it finds the pool is not being operated in accordance with the provisions of this act or the rules

and regulations. Any person aggrieved by any decision of the department of public health shall be granted a hearing as otherwise provided by law. Any permit that has been revoked shall be reissued only when in the opinion of the department of public health the deficiencies have been corrected.

325.616 Reports covering operations of pools. [M.S.A. 14.447(16)]

Sec. 16. The department of public health shall provide for a system of periodic reports covering the operation of the public swimming pool so that it may readily determine compliance with this act and the rules and regulations.

325.617 Closing of pools to protect public health or safety. [M.S.A. 14.447(17)]

Sec. 17. If the department of public health, its agents or representatives, or representatives of designated city or county or district health departments considers that conditions warrant prompt closing of a swimming pool until the provisions of this act and the rules and regulations are complied with for the protection of the public health and safety, it may order the owner or operator of the swimming pool to prohibit any person from using it until corrections have been made which would adequately protect the public health and safety.

325.618 Payments to local health departments. [M.S.A. 14.447(18)]

Sec. 18. The department of public health may approve payments of \$50.00 for each swimming pool granted an initial operation permit and \$10.00 for each renewal operation permit to designated city, county and district health departments when such fees are collected by the state from their respective areas. The state treasurer shall make such payments upon receipt of approval from the department of public health.

325.619 Penalty; prosecution of violations. [M.S.A. 14.447(19)]

Sec. 19. Any person violating any of the provisions of this act or any rule or regulation promulgated hereunder is guilty of a misdemeanor. Each day upon which a violation occurs is a separate violation for the purpose of this act. The several prosecuting attorneys and the attorney general of the state shall prosecute any person violating the provisions of this act.

325.620 Effective date. [M.S.A. 14.447(20)]

Sec. 20. This act shall take effect January 1, 1967.

R. S. 1846, Ch. 35.

QUARANTINE.

327.29 Quarantine of vessels; regulations. [M.S.A. 14.89]

Sec. 29. The board of health in each township in this state bordering upon Lake Michigan, Lake Superior, Lake Huron, Lake St. Clair, or Lake Erie, or upon any of the principal rivers or straits connecting together any of the said lakes, or bordering upon any navigable waters uniting with any of the said lakes, rivers or straits, may from time to time establish the quarantine to be performed by all vessels arriving within the limits of such townships, and may make such quarantine regulations as they shall judge necessary for the health and safety of the inhabitants.

HISTORY: C.L. 1857, 1365;—C.L. 1871, 1720;—How. 1661;—C.L. 1897, 4438;—C.L. 1915, 5069;→ C.L. 1929, 6503.

327.30 Same; extent. [M.S.A. 14.90]

Sec. 30. The quarantine regulations so established, shall extend to all persons, and all goods and effects, arriving in such vessels, and to all persons who may visit or go on board of the same.

HISTORY: C.L. 1857, 1366;—C.L. 1871, 1721;—How. 1662;—C.L. 1897, 4439;—C.L. 1915, 5070;—C.L. 1929, 6504.

327.31 Same; penalty for violation. [M.S.A. 14.91]

Sec. 31. The said quarantine regulations, after notice shall have been given in the manner before provided in this chapter, shall be observed and complied with by all persons; and any person who shall violate any such regulations, shall forfeit a sum not less than 5 dollars, and not more than 500 dollars.

HISTORY: C.L. 1857, 1367;—C.L. 1871, 1722;—How. 1663;—C.L. 1897, 4440;—C.L. 1915, 5071;—C.L. 1929, 6505.

327.32 Same; removal to quarantine ground; fumigation; removal of persons on board to hospital; expenses. [M.S.A. 14.92]

Sec. 32. The board of health in each township bordering upon any of the lakes, rivers, straits, or other navigable waters hereinbefore mentioned, may at all times cause any vessel arriving within the limits of the township, when such vessel or the cargo thereof shall, in their opinion, be foul or infected, so as to endanger the public health, to be removed to the quarantine ground, and to be thoroughly purified, at the expense of the owners, consignees, or persons in possession of the same, and they may also cause all persons arriving in, or going on board of such infected vessel, or handling such infected cargo, to be removed to any hospital under the care of the said board of health, there to remain under their orders.

HISTORY: C.L. 1837, 1368;—C.L. 1871, 1723;—How. 1664;—C.L. 1897, 4441;—C.L. 1915, 5072;—C.L. 1929, 6506.

327.33 Same; persons on board, failure to answer questions; penalty. [M.S.A. 14.93]

Sec. 33. If any master, seaman or passenger, belonging to any vessel on board of which any infection may then be, or may have lately been, or which may have been at, or which may have come from, any port or place where any infectious disease prevails, that may endanger the public health, shall refuse to answer on oath, to be administered by any member of such board, such questions as may be asked him, relating to such infection or disease, by any member of the board of health of the township to which such vessel may come, such master, seaman or passenger so refusing, shall forfeit a sum not exceeding 200 dollars; and in case he shall not pay such sum, he shall suffer 6 months' imprisonment.

HISTORY: C L 1857, 1369;—C L 1871, 1724;—How, 1665;—C L 1897, 4442;—C L 1915, 5073;—C L 1929, 6507.

327.34 Same; owner to pay expenses. [M.S.A. 14.94]

Sec. 34. All expenses incurred on account of any person, vessel or goods, under any quarantine regulations, shall be paid by such person, or by the owner of such vessel or

HISTORY: CL 1857, 1370;—CL 1871, 1725;—How. 1666;—CL 1897, 4443;—CL 1915, 5074;—CL 1929, 6508.

PLUMBING

Act 266, 1929, p. 639; Eff. Aug. 28.

An act to protect the health, and promote the safety and welfare of the people, by regulating the installation, alteration, maintenance, improvement and inspection of plumbing; to define plumbing and the classification of plumbers; to provide for the issuing of licenses and permits pertaining thereto and the disposition of moneys derived therefrom; to create a plumbing board, and to prescribe its powers and duties; to authorize cities, villages and townships to adopt and enforce certain standards; to establish remedies and fix penalties for violation of the provisions of this act.

The People of the State of Michigan enact:

338.901 Plumbing; definition. [M.S.A. 14.451]

Sec. 1. In this act, plumbing means and includes:

(a) All piping, fixtures, appliances and appurtenances in connection with the drainage, ventilation of the same or water supply systems within a building, residence or structure

and to a point from 3 to 5 feet outside of the same;

(b) The construction and connection of any drain or waste pipe carrying domestic sewage from a point within 3 to 5 feet outside of the foundation walls of any building, residence or structure with the sewer service lateral at the curb or other disposal terminal, and the alteration of any such system, drain or waste pipe, except minor repairs to faucets, valves, pipes, appliances and removing of stoppages; and the connection of domestic hot water storage tanks, water softeners, refrigerators, water heaters and similar domestic appliances with the water supply or drainage system;

(c) When so provided by local ordinance the water service piping from a building.

residence or structure to the mains in the street, alley or other terminal;

(d) The water piping and plumbing appliances, including the water pressure system

other than municipal systems, within the building, residence or structure;

(e) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement, and to prevent with a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals, or retard the discharge from plumbing fixtures or permit sewer air to escape into the building, residence or structure.

HISTORY: C L 1929, 6688; Am. 1933, p. 448, Act 260, Eff. Oct. 17. Title Am. 1933, p. 448, Act 266, Eff. Oct. 17; Am. 1949, p. 125, Act 121, Eff. Sept. 23.

338.901a Plumbing; definitions. [M.S.A. 14.451(1)]

Sec. 1a. As used in this act:

(a) "Multiple dwelling" means an apartment house, rooming house, boarding or

lodging house, hotel or mixed occupancy building.

(b) "Apartment house" means a building containing more than 2 dwelling units, and includes apartments, tenement houses, flats, apartment hotels, bachelor apartments, and other dwellings similarly occupied whether specifically enumerated herein or not.

(c) "Rooming house" means a building containing 1 dwelling unit in which more than 3 rooming units are leased, rented or provided for more than 4 occupants not related

to the family unit.

- (d) "Boarding or lodging house" means a building other than a single or 2 family dwelling, apartment house, rooming house or hotel which contains more than 1 rooming unit, and includes tourist homes, motels, club houses, fraternity and sorority houses, dormitories, residence halls, convents, homes for the aged, nursing homes, hospitals, sanitariums and other dwellings similarly occupied whether specifically enumerated herein or not.
- (e) "Hotel" means a building in which dwelling or rooming units are provided for more than 50 individuals, and in which a public dining room for the accommodation of at least 50 guests, and a general kitchen are provided.
- (f) "Mixed occupancy building" means a building which is used partly as a dwelling and partly for another use.

HISTORY: Add. 1961, p. 122, Act 109, Eff. Sept. 8

338.902 Same; sanitary construction; plumbing board, powers, minimum standards; notice, hearing. [M.S.A. 14.452]

Sec. 2. (a) The construction, installation and maintenance of plumbing in connection with multiple dwelling wherever located and with all buildings, residences and structures located in any city or village of 5,000 or more and having a system of water works or sewerage, and in those cities and villages having a population of 10,000 or over, the territory immediately adjacent and contiguous to the boundaries of such cities or villages and extending a radial distance of 1 mile beyond such boundaries in all directions, and in the case of cities having a population of 100,000 or over, the territory immediately adjacent and contiguous to the boundaries of such cities and extending for a radial distance of 2 miles in all directions, including buildings owned by the state or any political subdivision thereof, shall be in accordance with the provisions of this act.

the The plumbing board shall have general supervision of all such plumbing and shall after notice and public hearing, prescribe and publish minimum standards therefor which shall be uniform. Notice of such public hearing shall be given and publication of such standards shall be made in such manner as may be prescribed by the plumbing board. Such standards shall be submitted to cities and villages having inspection service prior to such public hearings. No standards shall be published until the same shall have been submitted to and approved by the advisory council of health.

HISTORY C.I. 1030, n689. Am. 1033, p. 448, Act 260, Eff. Oct. 17. Am. 1061, p. 123, Act 100,

338.903 Same; inspectors, qualifications. [M.S.A. 14.453]

Sec. 3. The plumbing board shall employ plumbing inspectors and other assistants and assign their duties to carry out the provisions of the act. The plumbing inspectors or engineers, in order to qualify for such employment, shall have had at least 10 years experience as practical plumbers, or a plumbing engineer shall be a graduate of some recognized school authorized to give such degree and have had 2 years further practical experience.

HISTORY: C.I. 1929, 6690;—Am. 1933, p. 449, Act 260, Eff. Oct. 17.

338.904 Local rules, enforcement, registration, fee, supervision. [M.S.A. 14.454]

Sec. 4. The legislative body of all cities and villages, having a population of 10,000 or over, according to the last federal census, shall, and any city or village having a population of more than 5,000 and less than 10,000, by such census, and having a system of water works or sewerage may, by charter, ordinance and/or action of its local board of health prescribe reasonable rules and regulations to safeguard the public health, provided they are not less than the minimum standards prescribed by the plumbing board, for the materials, construction, alteration and inspection of pipes, tanks and fixtures by which supply or waste water or sewage is used or carried, and provided that they shall not be placed in any building, residence or structure except in accordance with plans approved as provided in said charter or ordinance, and that no plumbing shall be done, except repairing leaks, without a permit upon prescribed conditions. Such city or village upon adopting such rules and regulations shall provide for the enforcement of the same and plumbing inspectors actually engaged in enforcement of such rules and regulations shall be licensed the same as other master or journeyman plumbers. In the case of cities or villages having a population of 10,000 or over, according to the last federal census, the enforcement of such rules and regulations shall also apply to all that territory immediately adjacent and contiguous to the boundaries of such cities or villages and extending for a radial distance of 1 mile beyond such boundaries in all directions and in the case of cities having a population of 100,000 or over the enforcement of the rules and regulations shall extend for a radial distance of 2 miles in all directions. After January 1, 1934, no city or village shall require the licensing of plumbers or prohibit plumbers licensed under this act from engaging in or working at the business of plumbing, but after January 1, 1934, all cities and villages over 5,000 having a system of water works or sewerage shall require all plumbers licensed under this act, residing in or doing work in said cities or villages to register with such officials as the local rules and regulations shall require. The registration of all plumbers licensed under this act shall be made on or before the first day of April each year and shall be made only upon presentation of the state plumbing license for the current year. For the service of such registration a fee of not to exceed 1 dollar may be charged for master plumbers and not to exceed 50 cents for journeymen plumbers. In no case, however, shall any other than the registration fee be required except as herein provided. Registration shall be granted immediately upon presentation of state license and payment of registration fee.

Such local authority as may be designated by any such charter or ordinance for the issuance of such plumbing permits and approval of such plans, shall report to the plumbing board any persistent or wilful violation of the same and any incompetence of a licensed plumber.

Where a system of waterworks or sewerage has been or shall be established in any city or village over 5,000 which has not provided for a board or office to supervise plumbing, drainage and sewerage, the plumbing board shall take immediate and entire control of plumbing, drainage and sewerage intended to be connected with public sewers or waterworks, and exercise all the power conferred by this act until the authorities therein shall have provided for such supervision.

The provisions of this act shall apply to cities and villages under 5,000 population having a system of water works or sewerage, when this act shall be adopted by a resolutior of the legislative body of any such city or village, by a majority vote of the members elect.

HISTORY: C.L. 1929, 6691;—Am. 1933, p. 449, Act 260, Eff. Oct. 17.

338.905 Master plumber; license; registration of apprentices; appeal. $[M.S.A.\ 14.455]$

Sec. 5. No person shall engage in or work at the business of a master plumber or journeyman plumber in any city or village over 5,000 having a system of waterworks or sewerage or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, or in any building owned by a political subdivision of the state situated in such city or village or in any building owned by the state or by any county wherever situated, unless licensed so to do by the plumbing board. In such city or village or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, or in any such building, no person, firm or corporation shall install plumbing unless at all times a licensed master plumber is in charge, who shall be responsible for proper installation. The plumbing board shall prescribe reasonable rules and regulations as to the qualifications, examination and licensing of applicants, and for the registration of plumbers' apprentices. Any person heretofore not required to be licensed and who on March 1, 1929, was engaged in or worked at the business of master plumber or journeyman plumber and who is required to be licensed under this act, shall, upon furnishing the commissioner with satisfactory evidence of having been so engaged on said date, and of having the necessary qualifications, shall be granted a master plumber's or journeyman plumber's license without examination, provided he makes application therefor prior to January 1, 1930, and pays the prescribed examination fee: Provided further, That any applicant for a master plumber's license or a journeyman plumber's license may appeal de novo from the decision of the plumbing board to the circuit court in chancery of the county in which he lives.

HISTORY: C L 1929, 6692; Am. 1933, p. 450, Act 260, Eff. Oct. 17.

338.906 Definitions; classes of plumbers. [M.S.A. 14.456]

Sec. 6. A master plumber is any person skilled in the planning, superintending and the practical installation of plumbing, and who is familiar with the laws, rules and regulations governing the same. A journeyman plumber is any person other than a master plumber, who, as his principal occupation, is engaged in the practical installation of

plumbing. A master plumber may also work as a journeyman. A plumber's apprentice is any person other than a journeyman or a master plumber, who as his principal occupation is engaged in learning and assisting in the installation of plumbing and drainage.

HISTORY: C.L. 1929, 6693;—Am. 1933, p. 450, Act 260, Eff. Oct. 17.

338.907 Plumbing board; membership, term, expenses, compensation; secretary; records. [M.S.A. 14.457]

Sec. 7. The governor, with the advice and consent of the senate, shall appoint 3 United States citizens, residents of the state, of whom 2 shall be licensed master plumbers and 1 shall be a licensed journeyman plumber, each having at least 10 years' experience, who with the state commissioner of health or his representative and a member or employee of the division of engineering of the state department of health, selected by the commissioner of health, shall constitute the plumbing board. The members of the board, appointed by the governor, shall hold office for 1, 2 and 3 years respectively from July 1, 1933, or until their successors shall have qualified, and thereafter, upon the expiration of the term of office of each person so appointed, the governor shall, on or before the first day of July in each year, appoint a successor to hold office for a term of 3 years. The members of the plumbing board shall be entitled to their actual and necessary expenses incurred in performing the duties of their office and shall be compensated in the amount of \$20.00 for each meeting attended: Provided. That no more than \$600,00 per year shall be paid to each member as compensation for attendance at meetings. The board shall elect annually from its membership a secretary who may be additionally compensated for such services in an amount not to exceed \$600.00 per year. It shall be his duty to keep a detailed and accurate record of all the acts and proceedings of the board and to perform such other duties as may be assigned to him by the board.

HISTORY C.L. 1929, 6694;—Am. 1933, p. 451, Act 260, Eff. Oct. 17;—Am. 1949, p. 125, Act 121, Eff. Sept. 23.—Am. 1954, p. 68, Act 56, Eff. Aug. 13.

338.908 Plumber's license; examinations; fees; term; interstate reciprocity; change of address, notice. [M.S.A. 14.458]

Sec. 8. Application for a plumber's license shall be made to the plumbing board. with the fee herein prescribed. The applicant shall be licensed only after passing a satisfactory examination. An examination for applicants for licenses as master plumbers or journeyman plumbers shall be conducted by the plumbing board and shall consist of oral. written, and practical tests. The master plumber's examination shall cover the science and practice of plumbing, knowledge of the state plumbing code, laws, rules and regulations, interpretation of charts and blue prints, and plans of plumbing installations. The journeyman plumber's examination shall cover the theory and practice of plumbing, and knowledge of the state plumbing code, rules and regulations. The character, experience and fitness of the applicant shall also be taken into consideration. The application fee for the examination for a master plumber's license shall be \$35.00 and for a journeyman plumber's license. \$10.00. Upon passing the examination, a license shall be issued, good until the following December 31, without further charge. After January 1, 1962, each master plumber shall renew his license only upon payment of a fee of \$25.00, and each journeyman plumber shall renew his license only upon payment of a fee of \$10.00. Licenses shall expire December 31 of each year and may be renewed upon application made during the following January or February. After March 1 of each year, all licenses not renewed shall be considered void and may be reinstated only upon application for reinstatement and the payment of the application fee of \$35.00 for master plumbers and \$15.00 for journeyman plumbers.

The plumbing board may license without examination, upon the payment of the required fee, applicants licensed under the laws of other states having requirements for licensing plumbers and regulating plumbing which the plumbing board determines are equivalent to the requirements of this state. Every holder of any license granted under this act shall promptly notify the plumbing board of any change in his business or residence

HISTORY: C.L. 1929, 6695;—Am. 1933, p. 451, Act 260, Eff. Oct. 17;—Am. 1949, p. 126, Act 121, Eff. Sept. 23;—Am. 1952, p. 110, Act 99, Eff. Sept. 18; Am. 1961, p. 123, Act 109, Eff. Sept. 8.

338.909 Temporary permits. [M.S.A. 14.459]

Sec. 9. The plumbing board may issue temporary revocable permits pending examination and may make rules governing the issuing of such permits, and to assist in this work, may appoint agents, without compensation, and may authorize 1 of its members or plumbing inspectors to hold a special permit examination, the results to be reported in writing.

HISTORY: C.I. 1929, 6696; -- Am. 1933, p. 452, Act 260, Eff. Oct. 17.

338.910 Business sign of master plumber, display, unlawful use. [M.S.A. 14.460]

Sec. 10. Every holder of a master plumber's license, engaged in the business of serving the public in any city, village, township or county having a system of waterworks or sewerage, or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, required to be licensed by this act and having complied with the rules and regulations, pertaining to the registration of plumbers of the said city or village, shall display in a conspicuous place at the entrance of his place of business a sign bearing his name and the words, "Licensed Master Plumber", in letters not less than 3 inches high. No person other than a licensed master plumber shall use or display the title, "Master Plumber", or append his name to such title, or any other title or words which represents or may tend to represent him as a licensed master plumber.

HISTORY: C L 1929, 6697;—Am. 1933, p. 452, Act 260, Eff. Oct. 17.

338.911 Investigations; revocation of license; complaint, hearing, appeal; relicensing. [M.S.A. 14.461]

Sec. 11. The plumbing board may, on its own motion or shall upon complaint in writing, make investigations and/or conduct hearings in reference to any of the matters regulated by this act, and may revoke any license issued under the provisions of this act. if the plumbing board finds after a hearing that the holder of any such license has obtained the same through error or fraud, is incompetent, has wilfully violated a second time any of its rules or regulations, or has violated any provision of this act, or any of the laws. ordinances, rules or regulations pertaining to plumbing and sanitation enacted by the state or any city or village thereof. A copy of the complaint, together with notice of the time and place of hearing, shall be served upon the party complained against, by personal service or by registered mail sent to his last known business or residence address. The person so served shall file answer thereto with the plumbing board within 10 days after service, and shall also serve a copy of such answer upon the complainant, if any. No order revoking a license shall be made until after a public hearing or hearings held before the plumbing board or before any duly authorized employee whose report the plumbing board shall have adopted. Such hearing or hearings shall be held in the county wherein the person complained of has his place of business or residence. In the event that said plumber is a non-resident, such hearing shall be held in the county where the defendant is employed or was last employed. The testimony presented and proceedings had at any such hearing shall be taken stenographically and preserved as a record of the plumbing board. No license shall be issued to any person whose license shall have been previously revoked, until the expiration of 1 year from the date such revocation becomes effective: Provided, however, That the defendant may appeal de novo from the decision of the plumbing board to the circuit court in chancery in the county in which said defendant lives or is employed.

HISTORY: C L 1929, 6698;—Am. 1923, p. 452, Act 260, Eff. Oct. 17.

338.912 Misdemeanor, penalty. [M.S.A. 14.462]

Sec. 12. Any person who shall work as a master or journeyman plumber for compensation or other valuable consideration, in any city or village over 5,000 having a system of water works or sewerage, or in that territory immediately adjacent and contiguous to the boundaries of such city or village having a population of 10,000 or over, according to the last federal census, and extending a radial distance of 1 mile beyond such boundaries in all directions, or in the case of a city having a population of 100,000 or over, for a radial distance of 2 miles in all directions, without a permit or license, or any plumber who shall do any act prohibited by this act, or fail to obey a lawful order, rule or regulation of the plumbing board, shall be guilty of a misdemeanor and may be fined not less than 10 dollars nor more than 50 dollars, or imprisoned in the county jail for not more than 30 days, or both fine and imprisonment in the discretion of the court. Each day of violation shall be a separate offense. Any person applying for a license or permit who shall wilfully make any false statement to the plumbing board or its duly authorized representative shall be guilty of a misdemeanor and subject to the above penalty. Any master plumber who shall employ an apprentice on plumbing representing him to be a journeyman, shall be deemed guilty of a misdemeanor and subject to the above penalty,

111STORY: C.I. 1929, 6699;—Am. 1933, p. 452, Act 260, Eff. Oct. 17.

338.913 Fees, disposition; salaries, expenses, payment. [M.S.A. 14.463]

Sec. 13. All fees and moneys received by the plumbing board from the licensing of plumbers, and any other income which may be received under the provisions of this act, shall be paid into the general fund. All salaries and other moneys expended under the provisions of this act shall be paid through the state treasurer on properly drawn vouchers from a fund appropriated by the legislature for the purpose of this act, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided

HISTORY: C.I. 1929, 6700; Am. 1933, p. 453, Act 260, Eff. Oct. 17.

Sec. 14. (This was a severing clause section.)

HISTORY: C.I. 1929, 6701;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

338.915 Date license required. [M.S.A. 14.465]

Sec. 15. No license shall be required under this act until January first, 1930. HISTORY: C.L. 1929, 6702.

338.916 Acts not repealed. [M.S.A. 14.466]

Sec. 16. Nothing herein contained shall be construed as repealing Act No. 222 of the Public Acts of 1901, as amended, or Act No. 167 of the Public Acts of 1917, as amended, except as the same may be in conflict herewith.

HISTORY: C.L. 1929, 6703.

NOTE: Act 222 of 1991, above referred to, is Compilers' § § 338.951 to 338.965. Act 167 of 1917 is Compilers' § § 125.401 to 125.519.

338.917 Scope, limitation. [M.S.A. 14.467]

Sec. 17. Nothing contained in this act shall be construed as applying to maintenance or repairing of plumbing, plumbing fixtures, steam or water lines in any factory, workshop, manufacturing or mercantile establishment.

HISTORY: C.L. 1929, 6704.

Act 222, 1901, p. 344; Eff. Sept. 5.

AN ACT relating to plumbing and drainage, and providing for the inspection thereof and for the examination, regulation, licensing and registration of plumbers and for the punishment of offenders against this act.

The People of the State of Michigan enact.

338.951 City board of examiners of plumbers; membership, appointment, qualifications, term, vacancy. [M.S.A. 14.471]

Sec. 1. Within 30 days after this act shall take effect, it shall be the duty of the local board of health, and if there be no local board of health then it shall be the duty of the mayor of each of the cities of this state to appoint a board for the examination of plumbers, to examine, license and register plumbers and formulate rules and regulations

therefor subject to the approval of such boards of health. Such board shall consist of 5 persons, of whom I shall be an employing or master plumber of not less than 10 years' experience in the business of plumbing, and 1 shall be a journeyman plumber of like experience, and the other members of such board shall be the officers in charge of the plumbing and drainage department of the board of health of such city, and the chief engineer having charge of sewers in such city, but in the event of there being no such officers in such city, then any other 2 officers having charge or supervision of the plumbing, drainage or sewerage, whom the mayor shall designate and appoint, or 2 members of the board of health of such city having like duties or acting in like capacities. The term of office of the master and journeyman plumbers first appointed under the provisions of this act shall be as follows, to wit: One shall be appointed and hold office from the time of such appointment until the first day of January, 1902, and until his successor shall be appointed. One shall be appointed and hold office from the time of such appointment until the first day of January, 1903, and until his successor shall be appointed, their term of office to expire respectively on the first day of January, 1902, the first day of January, 1903, and the board of health, and if there be no such board of health it shall be the duty of the mayor in making the first appointments under this act, for each 1 so appointed to specify the duration of the term of office to which he makes said appointments. and annually thereafter, within 10 days prior to the time of the expiration of the term of office of any such member of the board, his successor shall be appointed by the board of health, and if there be no such board of health it shall be the duty of the mayor to appoint for the term of 2 years, or until a successor shall be appointed, and the board of health, and if there be no such board, the mayor shall have power to fill any vacancy caused in such board of examiners by the death, removal, inability to act, resignation or removal from the city of any member thereof, and such appointment shall be for the unexpired term. Such officer in charge of the plumbing and drainage department, and such chief engineer in charge of sewers, or the officers holding equivalent positions or acting in like capacities, designated or appointed by the board of health, and if there be no such board of health, by the mayor as herein provided, when they shall cease to hold the offices by reason or on account of which they were so designated or appointed, their successors shall act on the examining board in their stead.

HISTORY: C L 1915, 6857;-C L 1929, 6705.

338.952 Same; compensation. [M.S.A. 14.472]

Sec. 2. The master or journeyman plumbers serving as members of such board shall severally be paid at the rate the prevailing wage for journeyman plumbers for each day's services when actually engaged in the performance of their duties pertaining to the office; but such compensation shall not exceed the sum of 15 dollars per month in cities of 25,000 inhabitants or less, nor the sum of 30 dollars per month in cities having a population of over 25,000 and less than 300,000, nor a sum of 60 dollars per month in cities having a population of over 300,000.

HISTORY: C.L. 1915, 6858;—Am. 1929, p. 523, Act 202, Imd. Eff. May 20;—C.L. 1929, 6706.

338.953 Same; resident citizenship. [M.S.A. 14.473]

Sec. 3. All the members of such board shall be citizens and actual residents of the cities in which they are appointed.

HISTORY: CL 1915, 6859;-CL 1929, 6707.

338.954 Same; meetings, powers; issuance of licenses after examination, fees, plumbing code. [M.S.A. 14.474]

Sec. 4. The several boards of examiners who shall be appointed under this act shall have power and it shall be their duty to meet at stated intervals in their respective cities not less than 4 times each year; they shall also meet whenever the board of health of such city and if there be no such board of health, then when the mayor thereof, shall in writing request them to do so; to have jurisdiction over and to examine all persons desiring to engage in the trade, business or calling of plumbing, either as journeymen or employing

or master plumbers in the city in which such board shall be appointed, with the power of examining all persons applying for a license as such journeyman or employing or master plumbers, or as inspectors of plumbing, to determine their fitness and qualifications for conducting the trade, calling or business of journeymen or of master plumbers, or to act as inspector of plumbing, and to issue licenses to all such persons who shall have submitted to and passed a satisfactory examination before such board, and shall be by it determined to be qualified for engaging in, carrying on or conducting the trade, calling or business of journeyman or employing or master plumber, or competent to act as inspectors of plumbing; to formulate, with the approval of the local board of health of the city in which it shall act, a code of rules regulating all plumbing and drainage work connected therewith in such city, including the proper materials, and workmanship, and from time to time to add to, amend or alter the same; to charge and collect from each person applying for examination the sum of 2 dollars for each regular examination made by said board, and all money so collected shall be paid over by the board monthly to the treasurer of such city in which said board shall be appointed.

HISTORY: C L 1915, 6860;—C L 1929, 6708.

338.955 Examination; required for lawful practice, not required for existing practitioners or temporary license. [M.S.A. 14.475]

Sec. 5. Any person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in any of the cities of this state as journeyman, employing or master plumber, shall be required to submit to an examination before such board of examiners as to his experience and qualifications in such trade, business or calling: Provided, That every person now engaged in the trade, business or calling of journeyman, master or employing plumber in any city of this state and who has been engaged for a period of 2 years or more, upon satisfactory proof made before, or filed with such examining board of the truth thereof, together with a statement verified by his oath showing his name, place of business, postoffice address and length of time he actually served as a plumber, and upon the payment to said board of the sum of 2 dollars, shall be entitled to receive from said board a license without further or other examination; all sums so collected shall be paid over to the treasurer, as in case of fees received for examination: Provided further however, That any person coming into this state and desiring to engage in any city of this state in the trade, calling or business of plumbing, either as journeyman plumber, or employing plumber, or any person in this state desiring to engage in such trade, calling or business, if at a time when said board is not in session, upon satisfactory proofs made by him either by examination or otherwise to any 2 members of said board of his fitness and qualifications to engage in such trade, business or calling, shall be entitled to receive from said 2 members a temporary license, which shall entitle him to engage in and carry on such trade, calling or business until the next regular meeting of such board, when he shall be required to submit to the regular examination of such board; and after a period of 60 days from the time this act shall take effect it shall not be lawful in any city in this state for any person to conduct such trade, business or calling, unless he shall have first obtained a license from such board, or from 2 members thereof, as provided in the proviso last above set forth, of the city in which he conducts, or proposes to conduct, engage in or carry on such business, trade or calling.

HISTORY: C.I. 1915, 6861;-C.L. 1929, 6709.

338.956 Registration of licensees with local boards of health. [M.S.A. 14.476]

Sec. 6. Within 90 days after this act shall take effect every journeyman, employing or master plumber carrying on his trade, business or calling in any of the cities of this state, shall register his name and postoffice address at the office of the board of health of the city in which he shall carry on or conduct such trade, business or calling, under such rules and regulations as the respective boards of health of each of the cities of this state shall respectively prescribe, and thereupon he shall be entitled to receive a certificate of such registration. Provided however, That such journeyman, employing or master plumber shall at the time of applying for registration, hold a license from an examining board. And

after a period of 90 days from the time this act shall take effect it shall not be lawful for any person to engage in, or carry on the trade, business or calling of journeyman, employing or master plumber in any of the cities of this state unless his name and postoffice address shall have been registered, as above provided.

HISTORY: Cl. 1915, 6862;-CL 1929, 6710.

338.957 Inspectors of plumbing; appointment, term, qualifications, compensation. [M.S.A. 14.477]

Sec. 7. Within 30 days after the organization of such examining board in any of the cities of this state, the local board of health, shall detail, designate and appoint for the purposes of this act and the enforcement of the provisions thereof and the work of inspecting the plumbing and drainage of buildings in said city, an inspector, or inspectors, of plumbing and drainage work connected therewith subject, however, to the provisions or limitations of existing laws regulating the appointment of inspectors by such commissioner or commissioners, or board or department of health of such city. The terms of inspector or inspectors shall be subject to termination by the commissioner or commissioners, board or department of health of such city at any time. But all inspectors of plumbing so detailed, designated and appointed, and all inspectors shall not be engaged directly or indirectly in the business of plumbing during the period of their appointment, and they shall be citizens and actual residents of the city of which they are appointed. They shall be entitled to receive such compensation as shall be fixed by the board, commission or department making such appointment.

HISTORY: C.L. 1915, 6863;-C.L. 1929, 6711.

338.958 Same; duties, reports. [M.S.A. 14.478]

Sec. 8. The duties of the inspector or inspectors of plumbing appointed under the provision for this act, shall be to inspect the construction and alteration of all plumbing and drainage work connected therewith performed in such city, and to report in writing the results of such inspection to the said commissioner of health, or the board of health, or the health department of their respective cities; they shall also report in like manner any person engaged in or carrying on the business, trade or calling of journeyman or master or employing plumber, without having the certificates hereinbefore provided.

HISTORY: C L 1915, 6864;-C L 1929, 6712.

338.959 Expiration and renewal of certificates of registration. [M.S.A. 14.479]

Sec. 9. All certificates of registration issued under the provisions of this act and all licenses authorizing connections with street sewers or water mains shall expire on the thirty-first day of December of the year in which they shall be issued, and may be renewed within 30 days preceding such expiration, such renewals to be for 1 year from the first day of January in each year: Provided, That a certificate of registration issued to a person under the provisions of the last proviso of section 5 of this act shall expire at the time of the next regular meeting of the board of examiners of such city, and shall not be renewed unless the person requesting such renewal shall then hold a license issued by the board of examiners.

HISTORY: C L 1915, 6865;-C L 1929, 6713.

338.960 Violation of plumbing regulations; procedure. [M.S.A. 14.480]

Sec. 10. Whenever any inspector or other person reports a violation of any of the said rules and regulations for plumbing and drainage work connected therewith or a deviation from any officially approved plans or specifications for plumbing and drainage work connected therewith filed with any board or department, the local board of health shall first serve a notice of violation thereof upon the plumber doing the work. Such notice may be served personally or by mail, and if by mail it may be addressed to such plumber at the address registered by him with such local health board; but the failure of such plumber to register will relieve any board of health from the requirements of giving notice of violation. Unless the violation is corrected within 3 days after the date of serving or mailing such notice, exclusive of the day of mailing or serving, the board of health may proceed according to law.

HISTORY: C L 1915, 6866; -C L 1929, 6714.

338.961 Regulation of plumbing and drainage work by local boards; construction of section. [M.S.A. 14.481]

Sec. 11. From and after 90 days after this act shall take effect the plumbing and drainage work connected therewith of all buildings, both public and private, of each of the cities of this state, shall be executed in accordance with the rules and regulations formulated by the local board of examiners and approved by the board of health, for plumbing and drainage work connected therewith, and all repairs and alterations in the plumbing and drainage work connected therewith of all building [buildings] heretofore constructed shall also be executed in accordance with such rules and regulations, where the board of health shall have control, but this section shall not be construed to repeal any existing provision of law requiring plans for the plumbing and drainage work as aforesaid of new buildings to be filed with any local board of health, and to be previously approved in writing by said board of health, and to be executed in accordance therewith, except that in any case of any conflict between such plans and the rules and regulations of the board of examiners and board of health, the latter shall govern.

HISTORY: C.I. 1915, 6867; - C.I. 1929, 6715.

338.962 Boards of examiners; quarters, clerks, records, expenses; provision for permits and fees by local legislative bodies. [M.S.A. 14.482]

Sec. 12. Each of such boards of examiners shall have power to procure suitable quarters for the transaction of business, to provide the necessary furniture, books and stationery, and to employ a clerk whose duty it shall be to keep a detailed and accurate record of all acts and proceedings of such board except as herein otherwise provided. The board of estimates and the common council of every city in this state shall annually insert in their tax levy a sufficient sum to meet the expenditures incurred under the provisions of this act; and all expenses incurred by the several boards of examiners in the execution and performance of the duties imposed by this act, including the per diem of the board of examiners and compensation of the inspector or inspectors of plumbing and drainage as fixed by the board, commissioner or department making their appointments shall be a charge on the respective cities and shall be audited, levied, collected and paid in the same manner as other city charges are audited, levied, collected and paid: Provided, That the legislative body of any city may by ordinance provide for plumbing permits and the charging of fees therefor and may provide the manner of fixing such fees: Provided, however. That all fees so collected under this act shall be specifically appropriated toward the costs and expenses of plumbing inspection in accordance with the provisions of this act. HISTORY: C.I. 1915, 6868;-Am. 1929, p. 523, Act 202, Imd. Eff. May 20;-C.L. 1929, 6716.

338.963 Penalty. [M.S.A. 14.483]

Sec. 13. Any person violating any of the provisions of this act, or any of the rules and regulations of the board of examiners as approved by the board of health of any city in this state regulating the plumbing and drainage work connected therewith of such city, shall upon conviction thereof be deemed guilty, of a misdemeanor and be punished by a fine of not exceeding \$100 and the cost of prosecution, or by imprisonment in the county jail for a period not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: C.L. 1915, 6869;-C.L. 1929, 6717.

338.964 Permit to make sewer or water main connections, issuance. [M.S.A. 14.484]

Sec. 14. After the passage of this act the commissioner or the board of public works of any city, or the officer or officers acting in a like capacity in any of the cities of this state, and having charge of the sewers and water mains, shall not issue a license to any one to connect with the sewers or with the water mains of such cities, unless such person has obtained and shall produce a certificate of registration, which is then in force, from the board of health of such city.

HISTORY: C.L. 1915, 6870;-C.L. 1929, 6718.

338.965 Inapplicability of act to certain cities. [M.S.A. 14.485]

Sec. 15. This act shall not apply to cities containing less than 15,000 inhabitants. HISTORY: C L 1915, 6871;—C L 1929, 6719.

PUBLIC SERVICE COMMISSION

Act 3, 1939, p. 7; Imd. Eff. Feb. 15.

AN ACT to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to create a public service commission and to prescribe and define the powers and duties thereof; to abolish the Michigan public utilities commission, and to confer the powers and duties now vested by law therein, on the public service commission hereby created; to provide for the continuance, transfer and completion of matters and proceedings now pending; to provide for appeals; to provide appropriations therefor; to declare the effect of this act and prescribe penalties for the violations of the provisions thereof; and to repeal all acts contrary to the provisions of this act.

The People of the State of Michigan enact

460.6 Public service commission; powers and jurisdiction; rates, rules, service of public utilities. [M.S.A. 22.13(6)]

Sec. 6. The Michigan public service commission is hereby vested with complete power and jurisdiction to regulate all public utilities in the state except any municipally owned utility and except as otherwise restricted by law. It is hereby vested with power and jurisdiction to regulate all rates, fares, fees, charges, services, rules, conditions of service and all other matters pertaining to the formation, operation or direction of such public utilities. It is further granted the power and jurisdiction to hear and pass upon all matters pertaining to or necessary or incident to such regulation of all public utilities, including electric light and power companies, whether private, corporate or cooperative, gas companies, water, telephone, telegraph, oil, gas and pipeline companies, motor carriers, and all public transportation and communication agencies other than railroads and railroad companies.

Railroads

The Michigan public service commission shall have the same measure of authority with respect to railroads and railroad companies as is granted and conferred under the various provisions of the statutes creating the Michigan railroad commission and its successor, the Michigan public utilities commission, and defining their powers and duties.

Construction and operation of gas service and pipe line facilities.

It may make reasonable rules and regulations to provide for the protection of the public in the construction and operation of facilities by public utilities rendering gas service and by companies operating a pipe line or lines for the transportation of gas, or any petroleum products that are gases at normal atmospheric temperatures and pressures: Provided, however, That such power and jurisdiction shall not extend to field gathering lines in either gas producing fields or gas storage fields except as such lines may cross state trunkline highways or railroads.

HISTORY: Am. 1952, p. 397, Act 240, Eff. Sept. 18; Am. 1960, p. 35, Act 44, Imd. Eff. Apr. 19.

CARRIERS BY WATER

Act 246, 1921, p. 459; Imd. Eff. May 18.

AN ACT to regulate the service, rates, fares and charges of carriers by water within this state.

The People of the State of Michigan enact:

460.201 Carriers by water; rates; filing, fixing by commission, exception. [M.S.A. 22.91]

Sec. 1. Any and all persons, firms and corporations engaged in the transportation of freight, passengers, or express, by water, wholly within this state shall, within 30 days after this act shall take effect, make and file with the Michigan public utilities commission in such form as it shall prescribe, its schedule of rates, fares, and charges for the carrying of freight, passengers, and express; which said rates, fares and charges shall continue in force until superseded by other schedules, filed in the manner above prescribed, by said

carrier, with the Michigan public utilities commission: Provided, however, That said Michigan public utilities commission may, either upon request, or upon its own motion, suspend the operation of any rate, fare, charge, or tariff filed as aforesaid, for a peroid not exceeding 30 days; and in case any such rate, fare, charge, or tariff shall be suspended by said Michigan public utilities commission, it shall give the interested carrier immediate notice thereof, and, within 10 days from the date of such suspension, shall fix a date of hearing, not more than 20 days from the date of said suspension, and shall give notice thereof to said carrier and to other persons in interest, who may be heard; and after said hearing said commission shall fix the rate, fare, charge, or tariff in the matter complained of; and such rate, fare, charge or tariff, when so fixed, shall continue to be the legal rate, fare, charge, or tariff in force until superseded as provided by law: Provided, That any ferry company operating within any municipality under an agreement with such municipality shall not be affected either as to fares or operation by this act.

HISTORY: CL 1929, 11071.

NOTE: The Michigan public utilities commission has been abolished and its powers and duties transferred to Michigan public service commission, see Compilers' § 460.4.

460.202 Same; audit of books by commission; duty to furnish data. [M.S.A. 22.92]

Sec. 2. The Michigan public utilities commission may examine any and all books, accounts, records, and papers of any such carrier by water, and audit the same; and it shall be the duty of any such carrier by water, to furnish to said Michigan public utilities commission, its proper officers, and employes, any and all data in relation to its investment, income, operating expenses, and such other statistical data as it may require.

HISTORY: CL 1929, 11072.

460.203 Same; rules of commission. [M.S.A. 22.93]

Sec. 3. The Michigan public utilities commission is hereby authorized, empowered and directed to make all needful rules and regulations governing its investigations of the affairs of such carriers by water, and to prescribe the form of all reports required from such carriers.

HISTORY: CL 1929, 11073.

460.204 Same; investigation, regulation of service and fixing of rates. [M.S.A. 22.94]

Sec. 4. Whenever any complaint shall be made to said Michigan public utilities commission by any person, firm, or corporation against any rate, fare, charge, or tariff of any carrier by water within this state, or against any rule, regulation, or service of such carrier, or against the neglect, failure, or refusal of any such carrier to make, observe or perform any rate, fare, charge, or tariff, or any rule, regulation, or service, said Michigan public utilities commission shall investigate the same, and it may regulate the performance or observance of any rate, fare, charge, or tariff, and any rule, regulation, or service, and may prescribe the same to be observed by such carrier: Provided, That such carrier shall in all cases be entitled to reasonable notice and an opportunity to be heard on such investigation before any rate, fare, charge, or tariff, or any rule, regulation, or service shall be prescribed, established, or imposed by said commission, in accordance with the terms of this section, and when any rate, fare, charge, or tariff, or any rule, regulation, or service shall be prescribed, established, or imposed by said commission, it shall thereafter be the duty of said carrier to observe and obey the same.

HISTORY: CL 1929, 11074.

460.205 Same; review of orders of regulation. [M.S.A. 22.95]

Sec. 5. Any order made by the Michigan public utilities commission prescribing or affecting any rate, fare, charge, or tariff, or any rule, regulation, or service of any carrier by water within this state, shall be subject to review in the same manner as is now provided by law for the review of orders made by said Michigan public utilities commission.

HISTORY: C.L. 1929, 11075.
REVIEW OF ORDERS: See Compilers' § § 462,26 and 462,27.
REHEARING: See Compilers' § § 460,351 and 460,352.

460.206 Penalty. [M.S.A. 22.96]

Sec. 6. Any person, firm, or corporation violating any of the provisions of this act, or any order of the Michigan public utilities commission made in pursuance thereof, shall be punishable by a fine not to exceed 100 dollars for each violation, and any officer or director of any corporation violating the provisions of this act, or any of the orders of the Michigan public utilities commission made in pursuance thereof, shall be punishable by a fine not exceeding 100 dollars for each such violation, or by imprisonment in the county jail for not more than 3 months, or by both such fine and punishment, in the discretion of the court.

HISTORY: C L 1929, 11076.

ISSUANCE OF SECURITIES

Act 144, 1909, p. 307; Eff. Sept. 1.

AN ACT to regulate the issuance of stocks, bonds and other evidences of indebtedness by persons, corporations and associations owning, conducting or operating certain public utilities, and to provide a penalty for the violation thereof.

The People of the State of Michigan enact:

460.301 Public utilities securities; approval by commission; appraisal of property, expense; review of order. [M.S.A. 22.101]

Sec. 1. Any corporation or association except municipal corporations, organized and existing, or which may hereafter be organized or authorized to do business under the laws of this state, or any lessee or trustee thereof, or any person or persons owning, conducting, managing, operating or controlling any plant or equipment within this state used wholly or in part in the business of transmitting messages by telephone or telegraph, producing or furnishing heat, artificial gas, light, water or mechanical power to the public, directly or indirectly, and any railroad, interurban railroad or other common carrier, or any corporation, association, or individual exercising or claiming the right to carry or transport natural gas for public use, directly or indirectly, or petroleum oil by or through pipe line or lines or engaged in the business of piping or transporting natural gas for public use, directly or indirectly, or engaged in the business of purchasing natural gas for distribution may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, the construction, completion, extension or improvement of facilities or for the improvement or maintenance of service or for the discharge or lawful refunding of obligations and may issue stock to represent accumulated earnings invested in capital assets and not previously capitalized: Provided, and not otherwise, That there shall have been secured from the Michigan railroad commission an order authorizing such issue and the amount thereof, and stating that in the opinion of the commission the use of the capital or property to be acquired to be secured by the issue of such stock, bonds, notes or other evidences of indebtedness, is reasonably required for the purposes of such person, corporation or association, or that the issue of such stock fairly represents accumulated and undistributed earnings invested in capital assets and not previously capitalized. Any such person, corporation or association desiring authority to issue stocks, bonds, notes or other evidences of indebtedness shall make written application therefor to the said commission in such form as the commission may require. After receiving such application, said commission may, for the purpose of enabling it to determine whether it should grant such authority, make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. If the applicant shall fail, neglect or refuse to furnish any or all of the information required by said commission, or if the said commission shall so direct, an appraisal of the property of said applicant shall be made by a disinterested person or persons to be appointed by said commission and whose compensation shall be fixed by said commission, the entire expense of making such appraisal to be borne by said applicant.

After said appraisal is made and filed with said commission and before any action is taken by said commission upon said application, the expenses of said appraisal as determined by said commission shall be paid by said applicant to said commission, which shall deposit the same in the treasury of the state to be credited to the general fund, taking the receipt of the treasurer therefor and filing the same in its office with said application. If the applicant shall refuse or neglect to pay the expense of said appraisal, the commission shall dismiss such application and said commission may bring an action against said applicant in any court of competent jurisdiction in this state for the recovery of the expense of said appraisal. The expense of said appraisal shall be paid by the state treasurer upon the warrant of the auditor general to the person certified by the commission to be entitled thereto. If from the application filed and such other information obtained from the investigation herein authorized, the said commission shall be satisfied that the funds derived from such issue of stocks, bonds, or notes are to be applied to lawful purposes and that such issue and amount is essential to the successful carrying out of such purposes, or that the issue of such stock fairly represents accumulated and undistributed earnings invested in capital assets and not previously capitalized, then said commission shall grant authority to make the issue applied for, and in granting such authority, the said commission may impose as a condition of the grant such reasonable terms and conditions as to the commission may seem proper: Provided, That any such person, corporation or association may issue notes for lawful purposes, payable at periods of not more than 24 months, without authority from said commission; but no such notes shall in whole or in part, directly or indirectly, be refunded by any issue of stock or bonds or by any evidence of indebtedness running for more than 12 months without the consent of said commission: Provided further, That the provisions of this act shall apply to all stock, shares, bonds or notes issued to or taken by the incorporators or their agents, assigns or trustees of any such corporation or association in the first instance, and shall also apply to all stock, bonds or notes issued to or taken by the stockholders of such corporation or association, their agents, assigns or trustees, from time to time thereafter. The supreme court upon petition of any person aggrieved may review by certiorari any final order of determination of the commission. The issuance of the writ shall not, however, unless specifically ordered by the court, operate as a stay of pro-

HISTORY: Am. 1911, p. 300, Act 177, Eff. Aug. 1;—Am. 1915, p. 457, Act 259, Eff. Aug. 24;—C L 1915, 8161;—Am. 1919, p. 667, Act 381, Eff. Aug. 14;—Am. 1929, p. 59, Act 30, Imd. Eff. April 4;—C L 1929, 11077. Title Am. 1915, p. 457, Act 259, Eff. Aug. 24.

WATER AND POWER COMPANIES

Act 232, 1863, p. 399; Eff. June 22.

AN ACT to provide for the incorporation of water power companies.

The People of the State of Michigan enact:

486.1 Water power companies; incorporators, notice; articles, contents. [M.S.A. 22.1581]

Sec. 1. That any number of persons, not less than 5, may be formed into a corporation, for the purpose of maintaining, repairing and improving, any canal with water-power appurtenant thereto, constructed and used for the transmission of water, and the creation of water-power thereby, for manufacturing uses, by complying with the following requirements: Notice shall be given in at least 1 newspaper printed in the county in which the said canal may be situated, and if there be no newspaper printed in said county, then such notice shall be printed in some newspaper of an adjoining county, having circulation in said county, of the time and place where all persons *desirious of forming such company may meet and subscribe articles of association, and elect directors of such company, in which articles of association shall be set forth, the name of the company, the number of years the same is to be continued, which shall not exceed 30 years from the date of said articles, the number and names of the directors who shall manage the concerns of the company for the first year, and shall hold their offices until others are elected, the canal on which the business of said company is intended to be done, and the place within the state where the office of said company shall be kept.

HISTORY: C.L. 1871, 2745;—How. 3874;—C.L. 1897, 6767;—C.L. 1915, 8867.—C.L. 1929, 11802; *NOTE. It is evident the word "desirious" should be speiled "desirous".

486.2 Same; articles, signing, filing; body corporate, powers; evidence. [M.S.A. 22.1582]

Sec. 2. Each subscriber to such articles of association shall subscribe thereto his name and place of residence: The said articles of association shall be filed in the office of the secretary of state, and thereupon the persons who have so subscribed, and all persons who from time to time shall associate with them, shall be a body corporate, by the name specified in such articles, and as such shall be capable of suing and being sued, in all courts, and in all manner of actions, and may have a common seal. A copy of any articles of association, filed in pursuance of this section, with a copy of an affidavit, made by at least 2 of the directors named therein, setting forth that all prior proceedings of said association, had been in strict conformity with all the provisions of this act endorsed thereon, or annexed thereto, and certified by the secretary of state, to be a true copy of the whole of such articles of association, and of such affidavit, shall be in all courts and places presumptive evidence of the incorporation of such company, and the facts therein stated.

HISTORY: CL 1871, 2746: How. 3875; -CL 1897, 6768; -CL 1915, 8868; CL 1929, 11803,

486.3 Directors; powers, election, term, vacancy; officers, selection; bond of treasurer. [M.S.A. 22.1583]

Sec. 3. The business of said company shall be under the management and direction of a board of directors, composed of not less than 3 nor more than 7, who, after the first year, shall be elected annually, at such time and place, and after such notice of the election as the by-laws shall prescribe, not less than 30 days previous to said election, and who shall hold their offices until their successors are elected. The said board shall elect from their number a president, and appoint a treasurer, who shall give such bond as the board of directors may require, and a secretary; and in case any vacancy shall occur in said board, the remaining directors may elect any member of said company to fill such vacancy as director, for the remainder of the term, and until a successor is elected; and in case said annual election of directors, from any cause, shall not be held at the time appointed, it shall be proper to hold the same at any time thereafter, upon giving like notice.

HISTORY: C L 1871, 2747; How. 3876; C L 1897, 6769; C L 1915, 8869; C L 1929, 11804

486.4 Membership. [M.S.A. 22.1584]

Sec. 4. Any person owning any interest in the canal and water-power under the control of such association, may become a member thereof at any time by subscribing his name to the articles of association. And any person or persons who shall purchase an interest in said water-power of any member of this association shall become a member of said association without other act and shall succeed to all his grantor's rights and privileges in the same as a member thereof to the extent of the interest so purchased.

HISTORY: Am. 1871, p. 123, Act 90, Imd. Eff. April 12;—CL 1871, 2748;—How. 3877;—CL 1897, 6770.—CL 1915, 8870.—CL 1929, 11805.

486.5 Repairs; permanent improvements. [M.S.A. 22.1585]

Sec. 5. When the canal or any of its appurtenances under the control of such association may need to be repaired or rebuilt, the directors of said association may cause the same to be done at the expense of the owners thereof: Provided, That in all cases of permanent improvements of the water-power or appurtenances thereto, as distinguished from repairs, the said directors shall not be authorized to make such improvements, or incur any expense concerning the same, unless first authorized by a vote of the members of said association at a regular or annual meeting thereof, or at a meeting to be called for that purpose. And provided further, That the expense of permanent improvements which are not rendered necessary for the actual preservation or protection of said water-power or its appurtenances shall be assessed and collected in the manner hereinafter provided only upon the members of such association and such owners of water-power not members as shall have consented thereto previous to the making of such improvement.

HISTORY: Am. 1871, p. 123, Act 90, Ind. Eff. April 12;—C. L 1871, 2749; How. 3878; C. L 1897, 5771—C.L 1915, 8871;—C.L 1929, 11806.

486.6 Same; statement, contents. [M.S.A. 22.1586]

Sec. 6. Whenever the board of directors shall make any repairs not authorized at any meeting of said association, it shall be their duty to file with the clerk of said association a statement containing.

First. A description of the work done;

Second. The expense thereof;

Third. The amount paid and to whom paid;

Fourth. The amount unpaid, if any, and to whom due

HISTORY: Am. 1871, p. 123, Act 90, Imd. Eff. April 12;—C L 1871, 2750; How. 3879;—C L 1897, 6772,—C L 1915, 8872;—C L 1929, 11807.

486.7 Assessment for repairs or improvements. [M.S.A. 22.1587]

Sec. 7. For the purpose of defraying the expenses of such repairing, rebuilding or permanent improvement, and such contingent expenses as may be incurred in the discharge of their duties as directors of such association, the said directors may make from time to time, as the work progresses, an assessment upon the owners of such water-power, assessing and apportioning to and upon each owner thereof, such portion of said expenses as the water-power used or owned by such persons bears to the whole water-power furnished by such canal and its appurtenances; and when a water-power afforded by such canal is owned by a firm or corporation, such firm or corporation shall be considered as an individual member, and such assessment may be made to and upon such firm or corporation.

HISTORY: Am. 1871, p. 124, Act 90, Imd. Eff. April 12;—C.L. 1871, 2751;—How. 3880;—C.L. 1897, 6773;—C.L. 1915, 8873;—C.L. 1929, 11808

486.8 Same; collection; user of water barred. [M.S.A. 22.1588]

Sec. 8. The said assessment shall then be delivered to the treasurer of the association for collection, who shall proceed forthwith and shall demand payment from each person named in said assessment of the amount apportioned to him, and if any such person shall neglect or refuse to pay the amount within 5 days after such demand to the treasurer, the same may be sued for and recovered, as provided for in section 18 of this act. Or the board of directors of such water-power company, may, by resolution direct that no member of said

company or occupant of such power, whose assessment has been due and unpaid for 30 days after notice in writing of such assessment, shall be permitted to draw water from the race of said water-power company until such assessment is paid, and such board of directors may, after the expiration of 30 days, after notice in writing as aforesaid, board up, or close the gate of flume of such delinquent member, or person, or owner, and keep the same closed until the assessments due as aforesaid have been paid.

HISTORY: Am. 1871, p. 124, Act 90, Imd. Eff. April 12;—C.L. 1871, 2752;—How. 3881;—Am. 1897, p. 33, Act 32; Eff. Aug. 30;—C.L. 1897, 6774;—C.L. 1915, 8874;—C.L. 1929, 11809.

486.9 Same; notice to non-resident. [M.S.A. 22.1589]

Sec. 9. In case any person upon whom an assessment shall have been made, as is herein provided, shall be a non-resident of the county in which said water-power is located, or absent, so that personal demand cannot be made upon him by the treasurer for the payment of such assessment, then in such case the treasurer shall give notice of such assessment by inserting a notice in some daily paper published in the town or city where such canal is located, in each issue, for 4 successive weeks, if a daily paper be published therein, if not, then in a weekly paper published in the county where said canal is located, once in each week for 4 successive weeks, specifying the fact of such assessment, and the name or description of the interest so assessed, and the amount of the assessment: Provided. That in case the directors shall so direct, it shall be lawful to include 1 or more assessments upon the same person or interest in 1 notice, and by a notice by mail directed to the owners' reputed place of residence, and the publication aforesaid, and the giving of notice by mail as aforesaid, shall be deemed equivalent to a personal demand in the cases specified in this section after the publication and mailing said notices as aforesaid. HISTORY: Am. 1871, p. 124, Act 90, Imd. Eff. April 12;—C.L. 1871, 2753—How. 3882;—C.L. 1897, 6775;—C.L. 1915, 8875;—C.L. 1929, 11810.

486.10 Mortgage lien; preference. [M.S.A. 22.1590]

Sec. 10. All assessments made under the provisions of this act shall be and remain a mortgage-lien upon the interest so assessed, from and after the completion of the work for which such assessment was made, until paid, together with interest and the cost of publishing notice, if notice shall be published, and said mortgage-lien shall have preference over all incumbrances on said interest from and after the recording of a certificate, as is hereinafter provided, except incumbrances now existing thereon in good faith, and except taxes assessed or to be assessed thereon by any law of this state.

HISTORY: Am. 1871, p. 125, Act 90, Imd. Eff. April 12; C.L. 1871, 2754, How. 3883;—C.L. 1897, 6776; C.L. 1915, 8876;—C.L. 1929, 11811.

486.11 Same; certificate, contents; recording; evidence. [M.S.A. 22.1591]

Sec. 11. After such mortgage-lien shall have attached to such interest in such canal and water-power, the secretary of such association shall make a certificate in writing, to be signed by him, and countersigned by the president, which certificate shall state

First. The amount of such assessment or assessments;

Second. That the work for which such assessment was made has been done;

Third. The time when the same became a lien;

Fourth. A description of the property or interest upon which such assessment was made;

Fifth. The amount due thereon, together with the costs made thereon, which certificate shall be verified by the affidavit of such secretary, or some member of the board of directors, and shall be recorded and indexed by the register of deeds of the county in which such water-power is situated, in the books for mortgage, the same as if it were a mortgage given by the owner of the interest so assessed, and such record, or a certified copy thereof, shall be notice and evidence to the same intent, extent, and for the same purpose as a mortgage

HISTORY: Am. 1871, p. 125, Act 90, Imd. Eff. April 12;—CL 1871, 2755;—How. 3884;—CL 1897, 6777;—CL 1915, 8877;—CL 1929, 11812.

486.12 Same; foreclosure. | M.S.A. 22.1592]

Sec 12. Such mortgage-lien created as aforesaid shall be in the nature of a mortgage on real estate, and may be foreclosed and collected the same as a mortgage is now enforced and collected in equity, and shall be subject to all laws of this state in relation to the foreclosure and satisfaction of mortgages in chancery, as near as may be; all suits commenced for the foreclosure, collection, and satisfaction of such mortgage-lien shall be in the corporate name of such association.

HUSTORY Am 1871, p. 126, Act. 90, Imd. Eff. April 12.—C.L. 1871, 2756; How. 3885;—C.L. 1897, 6778.—C.L. 1915, 8878.—C.L. 1929, 11813.
FORECLUSURE. See (Jud. Act.) Compilers. \$ 619,22 et seq.

486.13 Same; commencement of suit. [M.S.A. 22.1593]

Sec. 13. Suits may be commenced for the foreclosure of such mortgage-lien at the expiration of 60 days from the time the certificate shall be recorded as mentioned in section 11 of this act.

HISTORY: Am. 1871, p. 126, Act 90, Imd. Eff. April 12; C.L. 1871, 2757; How 1886, C.L. 1897, 6779; C.L. 1915, 8879; C.L. 1929, 11814.

486.14 Meetings, calling; notice, proof of service, filing. [M.S.A. 22.1594]

Sec. 14. Meetings of the members of the association may be called by any director, and it shall be the duty of any director to call a meeting of the members of said association on the written application of 3 members thereof. In all cases other than the annual or regular meetings, notice of such meeting, and of the time and place thereof, shall be given by personal service thereof if practicable, otherwise by posting a notice of such meeting on the premises of each member not personally served, in a conspicuous place, at least 24 hours before the time of meeting, and proof of the time and manner of such service by affidavit of the person serving the same shall be made and filed with the secretary of the association.

HISTORY: Am. 1871, p. 126, Act 90, Imd. Eff. April 12;—C L 1871, 2758;—How. 3887;—C L 1897, 6780;—C L 1915, 8880;—C L 1929, 11815.

486.15 Watchman; appointment, duties, compensation. [M.S.A. 22.1595]

Sec. 15. The board of directors are also authorized, in case they deem it expedient for the safety and well-being of the property under their control, to employ a competent watchman to watch during the night to see that the canal or its appurtenances receive no injury from breaks in embankments or other causes; and they may prescribe his duties and fix his compensation, and raise means to pay the same in the manner hereinbefore provided.

HISTORY: Am. 1869, p. 99, Act 51, Imd. Eff. March 22;—Am. 1871, p. 127, Act 90, Imd. Eff. April 12;—C.L. 1871, 2759;—Hew. 3888;—C.L. 1897, 6781;—C.L. 1915, 8881;—C.L. 1929, 11816.

486.16 Contracts. [M.S.A. 22.1596]

Sec. 16. The said board of directors shall have power to make all necessary contracts in the name of the corporation to carry out the duties imposed upon them by this act, which contract shall be signed by the president of the board, if in writing, in the corporate name thereof.

HISTORY: Am. 1871, p. 127, Act 90, Imd. Eff. April 12;—CL 1871, 2760;—How. 3889;—CL 1897, 6782;—CL 1915, 8882;—CL 1929, 11817.

486.17 Treasurer, duties. [M.S.A. 22.1597]

Sec. 17. The treasurer of said board shall receive all moneys paid to him on assessment, and hold the same, to be paid out on the order of the said board, certified to the president thereof.

HISTORY: Am. 1871, p. 127, Act 90, Imd. Eff. April 12;—C L 1871, 2761;—How. 3890;—C L 1897, 6783;—C L 1915, 8883;—C L 1929, 11818.

486.18 Assessment, recovery. [M.S.A. 22.1598]

Sec. 18. All sums due from any person upon any assessment authorized by this act may be recovered with interest in an action of assumpsit brought in the name of the corporation, in any court of competent jurisdiction, or as provided in section 12 of this act.

HISTORY: Am. 1871, p. 127, Act 90, Imd. Eff. April 12;—C.L. 1871, 2762;—How. 3891;—C.L. 1897, 6784;—C.L. 1915, 8884;—C.L. 1929, 11819.

486.19 Disposition of funds at annual meeting. [M.S.A. 22.1599]

Sec. 19. At the annual meeting of the members of said association, held for the election of officers, pursuant to the by-laws thereof, the members representing the majority of interest in such water-power may by vote make disposition of all the funds shown by the report of the treasurer of the board of directors, to be made to said meeting, to be in his hands and such funds shall be paid out as so voted by said treasurer upon the certificate of the president of said board.

H1STORY: Am. 1871, p. 127, Act 90, Imd. Eff. April 12;—C.L. 1871, 2763; How. 3892;—C.L. 1897, 6785; C.L. 1915, 8885; C.L. 1929, 11820

486.20 By-laws. [M.S.A. 22.1600]

Sec. 20. Said association shall have power by its by-laws to regulate the use of the water transmitted through the canal under its control by the several owners thereof; to determine the absolute or average head of said water; for the measurement of the quantity to be used by the several owners thereof in proportion to their interest in the water-power furnished by said canal; and to provide for the construction and maintenance in good order of all flumes, gateways, and other structures built to draw water from said canal, and for the tightening, contracting, or enlarging of the same according to the various stages of water in said canal; and in said by-laws to provide for the manner in which the aforesaid regulations shall be made, published, and enforced; and to provide for regular meetings of the association and the time and place of holding the same.

HISTORY: Am. 1871, p. 127, Act 90, Imd. Eff. April 12;—C L 1871, 2764;—How. 3893;—C L 1897, 6780;—C L 1915, 8886;—C L 1929, 11821.

486.21 Stockholder's liability. [M.S.A. 22.1601]

Sec. 21. The stockholders of all corporations or associations formed under the provisions of this act, shall be individually liable for all labor performed for such corporation or association.

HISTORY: CL 1871, 2765; -How. 3894; -CL 1897, 6787; -CL 1915, 8887; -CL 1929, 11822.

486.22 Tenants in common, liabilities. [M.S.A. 22.1602]

Sec. 22. All owners of water-power afforded by any canal or its appurtenances which is under the control of any association formed under this act, who are tenants in common of the water, water-power, or easements or canal and appurtenances with the members of said association formed under this act, or the act to which this act is amendatory, shall be deemed to have consented to the making of such repairs, and improvements as are proper or necessary for the protection and preservation of such canal and its appurtenances and such as render the same generally available to the owners thereof; and it shall not be necessary in any such case in any proceedings under this act, to allege or show a previous request made to them to join in making such repairs and improvements, but they shall be respectively liable to pay their just proportion at the time and in the manner in this act provided for.

HISTORY: Add. 1871, p. 128. Act 90, Imd. Eff. April 12;—C L 1871, 2766;—How. 3805;—C L 1897, 6788;—C L 1915, 8888;—C L 1929, 11823.

Act 39, 1883, p. 31; Imd. Eff. April 21.

AN ACT to authorize the formation of corporations for the purpose of excavating, constructing and maintaining water courses with water power appurtenant thereto, for accumulating, storing, conducting, selling, furnishing and supplying, upon an agreed rental, water and water power for mining, milling, manufacturing, domestic, municipal and agricultural purposes.

The People of the State of Michigan enact.

486.51 Water power and supply corporations; incorporators, powers. [M.S.A. 22.1611]

Sec. 1. That any number of persons not less than 5, may form themselves into a corporation for the purpose of excavating and constructing, maintaining, repairing and improving any canal already existing, or which they may wish to excavate and construct, with water

power appurtenant thereto, and may own, use and control the same for the purpose of accumulating, storing, conducting, selling, furnishing and supplying, upon an agreed rental, water and water-power for mining, manufacturing, domestic, municipal and agricultural purposes, and may acquire, take, hold, lease and convey lands or water power, as may be necessary or convenient, for the purposes above specified, by complying with the following requirements:

HISTORY: How 3895a;—C L 1897, 6789;—C L 1915, 8889;—C L 1929, 11824. WATER POWER AND WATER SUPPLYING COMPANIES: Specifically excepted from the provisions of Act 84 of 1921, except as otherwise therein provided, see Sec. 8 of Ch. 1 of Pt. I, being C L 1929, 9950. See also Compilers' § 450.3, as to exemption from corporation code.

486.52 Same; certificate, acknowledgment, contents, recording, filing.

[M.S.A. 22.1612]

Sec. 2. Such persons under their hands and seals shall make a certificate which shall specify

First, The name of the corporation;

Second. A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;

Third, The county and townships within this state in which such canal is to be excavated and constructed, and the operations of said company carried on;

Fourth, The business and object of said company in general terms;

Fifth, The names and places of residences of the stockholders, and the number of shares held by each of them respectively;

Sixth, The names of the first directors, being not more than 7, and not less than 5;

Seventh. The place in this state where their office for the transaction of business is located:

Eighth, The term of existence of such corporation, which certificate shall be acknowledged as deeds are required to be acknowledged and recorded, in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state,

HISTORY: How. 3895b; -- C.L. 1897, 6790; -- C.L. 1915, 8890; -- C.L. 1929, 11825.

486.53 Same; body corporate; governing law. [M.S.A. 22.1613]

Sec. 3. Upon complying with the provisions of the last preceding section such company shall be a body corporate by the name designated in said certificate, and shall be subject to and governed by all the general provisions relating to corporations embraced in chapter 130 of the Compiled Laws of the state of Michigan, now in force, so far as the same shall be applicable thereto.

HISTORY: How. 3895c; - C L 1897, 6791; -- C L 1915, 8891; -- C L 1929, 11826.

486.54 Directors; powers, election, term, qualifications. [M.S.A. 22.1614]

Sec. 4. The business and property of such company shall be managed and directed by a board of not less than 5 nor more than 7 directors, who shall be elected annually and at such time and place as said by-laws may direct. No person shall be a director unless he is a stockholder in the corporation.

HISTORY: How. 3895d:—C.L. 1897, 6792;—C.L. 1915, 8892;—C.L. 1929, 11827 ELECTIONS FOR DIRECTORS: See Act 112 of 1885, being Compilers' \$ 450.651

486.55 Same; calling of election. [M.S.A. 22.1615]

Sec. 5. In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

HISTORY: How. 3895e; -C L 1897, 6793; -C L 1915, 8893; -C L 1929, 11828

486.56 Same; majority control. [M.S.A. 22.1616]

Sec. 6. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

HISTORY: How. 3895f .- C L 1897, 6794; - C L 1915, 8894; -- C L 1929, 11829.

486.57 Subscriptions; increase in capital stock, procedure. [M.S.A. 22.1617]

Sec. 7. The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount mentioned in their articles of association shall be subscribed, and whenever, in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect completion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors, with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of the stockholders, to provide for such increase, and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified and filed as hereinbefore required in the case of original articles of association.

HISTORY: How 3895g; -C L 1897, 6795; -C L 1915, 8895; -C L 1929, 11830.

486.58 Same; calling in; sale, procedure; proceeds, disposition; purchaser's rights.

Sec. 8. The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places as they shall think proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors, at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county Provided, That if said stockholder shall reside in this state the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county. If no newspaper be published in the county in which such corporation transacts their business, then it shall be published in the newspaper in the city of Detroit, which shall have at the time the largest circulation; and the proceeds of such sale shall be at first applied in payment of the installment called for, and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder, to the extent of the shares so bought.

HISTORY: How. 3895h; -CL 1897, 6796; -CL 1915, 8896; -CL 1929, 11831

486.59 Corporate powers. [M.S.A. 22.1619]

Sec. 9. Every such corporation organized as hereinbefore prescribed, shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, To cause such examination and surveys for the proposed improvements whether of dams, canals or digging or deepening of channels to be made, as may be necessary to prepare for the work to be done;

Second, To purchase and by voluntary grants and donations to receive, enter upon, take, hold and use, all such lands and real estate and other property as may be necessary for the construction, maintenance and operation of dry docks, canals and all other works proposed in the approved plans of such company, and to lease, mortgage or otherwise dispose of real or personal property;

Third, To divert into any canal excavated or constructed under the provisions of this act, water from Lake Superior or St. Mary's river to flood lands belonging to said company, subject to the consent of the board of supervisors of the proper county in which waters so diverted are situated, and to erect such docks in Lake Superior or St. Mary's river as may be necessary or convenient for the purpose of such company.

HISTORY: How. 38951;—C.L. 1897, 6797.—Am. 1899, p. 362, Act 231, Eff. Sept. 23;—C.L. 1915, 8897;—C.L. 1929, 11832.

486.60 Power to construct railroads, telegraph and telephone lines; holding of realty. [M.S.A. 22.1620]

Sec. 10. Said corporation may, in the exercise of its discretion erect along the line of its canal, or over different portions of its property, such railroads as may be necessary for connecting manufacturing establishments situated upon or connected with their premises

or enjoying water privileges from them with any line of railroad or any harbor near them, and such telegraph lines or telephonic lines as may be reasonably necessary or convenient in connection therewith. Said corporation may purchase and hold such tracts of land along the line of its canal and water courses, as may reasonably be necessary or convenient for the conveying of water, storing it, and dispensing and dividing it among those who wish to purchase or lease it for any of the purposes mentioned in this act, or for the purpose of erecting manufactories or mills upon.

HISTORY: How. 3895j; CL 1897, 6798; CL 1915, 8898; CL 1929, 11833.

486.61 Furnishing and use of water; rent, collection. [M.S.A. 22.1621]

Sec. 11. Such company may furnish water to other persons or companies for mining, manufacturing, milling, domestic, municipal, or agricultural purposes, on such rent as shall be agreed upon by and between it and those desiring to obtain it, or it may use the same for such purposes itself in any class of manufacturing purposes. It is authorized to bring suit to enforce the payment of such rent in any proper court of the county where its principal office is located.

HISTORY: How. 3895k:-C L 1897, 6799;-C L 1915, 8899;-C L 1929, 11834.

486.62 Injury to stream or property; penalty. [M.S.A. 22.1622]

Sec. 12. If any person shall willfully obstruct any stream or waters improved under the provisions of this act or any part thereof, or shall willfully destroy or injure any buildings, piers, dams, fixtures, banks, or other constructions in use upon the same, belonging to said company, such person or persons so offending, shall for every offense, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

HISTORY: How. 3895-1. C L 1897, 6800; -C L 1915, 8900; -C L 1929, 11835.

486.63 Annual report; contents. [M.S.A. 22.1623]

Sec. 13. On or before the first Monday in July in each year it shail be the duty of the directors of every company formed under this act to report to the secretary of state, under the oath of the secretary and at least 2 of the directors, the length of the stream or waters so constructed or improved, the cost of such improvements, the amount of money expended, the amount of their capital, how much of the same is paid in, and how much is expended, the whole amount of tolls or earnings expended on such improvements, the amount of money received during the previous year for tolls, and from all other sources, stating each separately, the amount set apart for repairs, the amount of dividends made, and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.

HISTORY: How, 3895m;—C L 1897, 6801;—C L 1915, 8901;—C L 1929, 11836.

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HISTORY How 3895n —Am 1887, p 103, Act 93, Imd Eff. May 3;—C L 1897, 6802;—Am, 1899, p. 363, act 211, iff Sept. 25;—Rep. 1009, p. 350, Act 184, Eff. July 1, 1912.

This section in 1883 and again under the amendment of 1809 gave the company the option to pay a specific ax of 1 per cent on its authorized capital stock in lieu of general taxes.

486.65 Stockholder's liability; recovery prerequisites. [M.S.A. 22.1624]

Sec. 15. The stockholders of every company organized in pursuance of this act shall be jointly and severally personally liable for the payment of all debts and demands against such association, which shall be contracted or which shall be or shall become due during the time of their holding such stocks for any labor or services done or performed for such company, but no stockholder shall be proceeded against for the collection of any debt or demand against such company until execution on judgment for such labor and services shall have been returned unsatisfied, or unless such association shall be dissolved.

HISTORY: How 38950; -C L 1897, 6803; -C L 1915, 8902; -C L 1929, 11837.

486.66 Shares deemed personalty; transfer. [M.S.A. 22.1625]

Sec. 16. The shares of any company formed under this act shall be deemed personal property and may be transferred as shall be prescribed by the by-laws of such company. HISTORY: How. 3895p:—C L 1897, 6804:—C L 1915, 8905;—C L 1929, 11838.

Act 202, 1887, p. 219; Imd. Eff. June 18.

AN ACT to authorize the formation of corporations for the purpose of damming, excavating, constructing and maintaining water courses with water power appurtenant thereto, for accumulating, storing, conducting, selling, furnishing and supplying upon an agreed rental, water and water power for mining, milling, manufacturing, domestic, municipal and agricultural purposes and for purposes of navigation.

The People of the State of Michigan enact:

486.101 Water power and supply corporations; incorporators, powers.

[M.S.A. 22.1631]

Sec. 1. That any number of persons not less than 5 may form themselves into a corporation for the purpose of damming any stream and of excavating and constructing, maintaining, repairing and improving any canal already existing or which they may wish to excavate and construct with water power appurtenant thereto and may own lease use and control the same for the purpose of accumulating storing conducting, selling furnishing and supplying upon an agreed rental water and water power, for mining, milling, manufacturing, domestic, municipal and agricultural purposes and for purposes of navigation, and may acquire hold, lease and convey lands or water power as may be necessary or convenient for the purposes above specified by complying with the following requirements.

HISTORY: How, 3805r;—CL 1897, 6806;—CL 1915, 8904;—CL 1929, 11839, WAIER FOWER AND WAIER SUPPLYING COMPANIES: Specifically excepted from the provisions of Act 84 of 1921, except as otherwise therein provided, see Sec. 8 of Ch. 1 of Pt. I, being CL 1929, 9950. See also Compilers' \$ 450.3, as to exemption from corporation code.

486.102 Same; certificate, acknowledgment, contents, recording, filing.

[M.S.A. 22.1632]

Sec. 2. Such persons under their hands and seals, shall make a certificate which shall specify,

First, The name of the corporation;

Second, A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;

Third, The county and townships within this state in which such canal is to be excavated and constructed, and the operations of said company carried on;

Fourth, The business and object of said company in general terms;

Fifth, The names and places of residence of the stockholders, and the number of shares held by each of them respectively;

Sixth. The names of the first directors, being not more than 7, and not less than 5; Seventh, The place in this state where their office for the transaction of business is

Eighth, The term of existence of such corporation, which certificate shall be acknowledged as deeds are required to be acknowledged, and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state.

HISTORY: How. 3895s;—C L 1897, 6807;—C L 1915, 8905;—C L 1929, 11840.

486.103 Same; body corporate; governing law. [M.S.A. 22.1633]

Sec. 3. Upon complying with the provisions of the last preceding section such company shall be a body corporate by the name designated in said certificate, and shall be subject to and governed by all the general provisions relating to corporations embraced in chapter 130 of the Compiled Laws of the state of Michigan, now in force, so far as the same shall be applicable thereto.

HISTORY: How. 2895t:—CL 1897, 6808.—CL 1915, 8906;—CL 1929, 11841. NOTE: Ch. 130 of CL 1871, above referred to, is Compilers' \$ 450.504 et seq.

486.104 Directors; powers, election, term, qualifications. [M.S.A. 22.1634]

Sec. 4. The business and property of such company shall be managed and directed by a board of not less than 5 nor more than 7 directors, who shall be elected annually, and at such time and place as said by-laws may direct. No person shall be a director unless he is a stockholder in the corporation.

HISTORY: How. 3895u;—C L 1897, 6809;—C L 1915, 8907;—C J 1929, 11842.

486.105 Same; calling of election. [M.S.A. 22.1635]

Sec. 5. In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

HISTORY: How 3805v CI 1807, 6810 CL 1915, 8908; CL 1920, 11843

486.106 Same; majority control. [M.S.A. 22.1636]

Sec. 6. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

HISFORY: How. 3895w - C.L. 1897, 6811, - C.L. 1915, 8909; - C.L. 1929, 11844

486.107 Subscriptions; increase in capital, procedure. [M.S.A. 22.1637]

Sec. 7. The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount mentioned in their articles of association shall be subscribed, and whenever, in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect completion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors, with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of the stockholders, to provide for such increase, and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified, and filed as hereinbefore required in the case of original articles of association.

HISTORY How 3895x - C L 1897, 6812; - C L 1915, 8910; - C L 1929, 11845.

486.108 Same; calling in; sale, procedure; proceeds, disposition; purchaser's rights. [M.S.A. 22.1638]

Sec. 8. The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places as they shall think proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors, at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county: Provided, That if said stockholder shall reside in this state, the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county. If no newspaper be published in the county in which such corporation transacts their business, then it shall be published in the newspaper in the city of Detroit, which shall have at the time the largest circulation; and the proceeds of such sale shall be at first applied in payment of the installment called for, and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder, to the extent of the shares so bought.

HISTORY Heat 1805y - C.L. 1807, 6813 - C.L. 1915, 8911; -C.L. 1929, 11846

486.109 Corporate powers. [M.S.A. 22.1639]

Sec. 9. Every such corporation, organized as hereinbefore prescribed shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, To cause such examinations and surveys for the proposed improvements whether dam-locks, canals or digging or deepening of channels to be made as may be necessary to prepare for the work to be done.

Second, To purchase and by voluntary grants and donations to receive, enter upon, take hold and use all such lands and real estate and other property as may be necessary for the construction and maintenance of the work proposed in the approved plans of such company.

Third, To divert into any canal excavated or constructed under the provisions of this act, waters from Lake Paw Paw or Paw Paw river or any tributary stream in Berrien county state of Michigan, to flood lands belonging to said company or subject to condemnation proceedings as provided by law, by constructing the necessary dams in said

canal or in creeks or other water courses subject to the consent of the board of supervisors of the proper county in which said waters so diverted or dammed are situated.

Fourth, The acquisition of lands shall be under the same rules and forms as near as practicable as are provided in cases for the acquisition of lands for right of way of railway lines, when the railway company is unable to agree with the owners or legal representatives for the purchase of any real estate.

Fifth, To issue its construction bonds to an amount not exceeding 50 per centum of its capital stock bearing a rate of interest not above 7 per cent and payable at any such time as the board of directors may determine, on approval of a majority in interest of the stockholders voting at any regular or called meeting of their body.

Sixth, That in any case where the company is unable to agree with the owners of land needed for, or in the work of constructing a navigable waterway, as herein provided, or cannot agree with any highway commissioner, or other authority, as to the crossing or changing of roads, streets, or streams, then and in all such cases the same laws providing for the incorporation of railroad companies, and providing for the condemnation of lands to the public use in certain cases, shall govern and be the rule of action or procedure so far as practicable; and any company undertaking to construct a navigable waterway, with or without water power appurtenant thereto, and intending to do a transportation business upon such waterway, shall have the same rights and privileges for procuring right of way, needed lands, or real estate of any kind, or of crossing streams and highways, as the laws of Michigan allow railroad companies.

HISTORY: How. 3895z, -C L 1897, 6814, -C L 1915, 8912; -C L 1929, 11847

486.110 Power to construct railroad, telephone and telegraph lines; holding of realty. +M.S.A. 22.1640]

Sec. 10. Said corporation may, in the exercise of its discretion, erect along the line of its canal or over different portions of its property, such railroads as may be necessary for connecting manufacturing establishments situated upon or connected with their premises or enjoying water privileges from them with any line of railroad or any harbor near them, and such telegraph lines or telephonic lines as may be reasonably necessary or convenient in connection therewith. Said corporation may purchase and hold such tracts of land along the line of its canal and water courses, as may reasonably be necessary or convenient for the conveying of water, storing it and dispensing and dividing it among those who wish to purchase or lease it for any of the purposes mentioned in this act, or for the purpose of erecting manufactories or mills upon.

HISTORY: How. 3805z-1. - C L 1897, 6815; - C L 1915, 8913; - C L 1929, 11848.

486.111 Furnishing and use of water; rent, collection. [M.S.A. 22.1641]

Sec. 11. Such company may furnish water to other persons or companies for mining, manufacturing, milling, domestic, municipal or agricultural purposes, on such rent as shall be agreed upon by and between it and those desiring to obtain it, or it may use the same for such purposes itselt in any class of manufacturing purposes. It is authorized to bring suit to enforce the payment of such rent in any proper court of the county where its principal office is located.

HISTORY: How. 38952-2; -C L 1897, 6816; -C L 1915, 8914; -C L 1929, 11849.

486.112 Injury to stream or property; penalty. [M.S.A. 22.1642]

Sec. 12. If any person shall willfully obstruct any stream or waters improved under the provisions of this act or any part thereof, or shall willfully destroy or injure any buildings, piers, dams, fixtures, banks, or other constructions in use upon the same, belonging to said company, such person or persons so offending, shall, for every offense, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

HISTORY: How. 3895z-3; -- CL 1897, 6817; -- CL 1915, 8915; -- CL 1929, 11850.

486.113 Annual report; contents. [M.S.A. 22.1643]

Sec. 13. On or before the first Monday in July in each year it shall be the duty of the directors of every company formed under this act to report to the secretary of state, under

the oath of the secretary and at least 2 of the directors, the length of the stream or waters so constructed or improved, the cost of such improvements, the amount of money expended, the amount of their capital, how much of the same is paid in, and how much is expended, the whole amount of tolls or earnings expended on such improvements, the amount of money received during the previous year for tolls, and from all other sources, stating each separately, the amount set apart for repairs, the amount of dividends made, and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.

HISTORY: How 38052-4. C.L. 1807, 6818; - C.L. 1915, 8016; - C.L. 1929, 11851

486.114 Real property; purchase, holding, disposal; personal property, disposal. | M.S.A. 22.1644|

Sec. 14. Each and every company formed under this act shall have authority to purchase and hold land adjacent to or within convenient distance of any canal constructed under the provisions of this act, for the purpose of platting and selling to manufacturers, their operatives or to other persons, and shall have authority to lease, mortgage or otherwise dispose of real or personal property: Provided, That no land shall be held by said company for the purposes stated in this section for a longer period than 10 years from the time when the same shall have been acquired, nor exceeding in amount 2,000 acres.

HISTORY: How. 3805z-5; C.L. 1807, 6819; C.L. 1915, 8917; C.L. 1929, 11857.

486.115 Stockholder's liability; recovery prerequisites. [M.S.A. 22.1645]

Sec. 15. The stockholders of every company organized in pursuance of this act shall be jointly and severally personally liable for the payment of all debts and demands against such association, which shall be contracted, or which shall be or shall become due during the time of their holding such stocks, for any labor or services done or performed for such company, but no stockholder shall be proceeded against for the collection of any debt or demand against such company until execution or [on] judgment for such labor and services shall have been returned unsatisfied, or unless such association shall be dissolved.

HISTORY: How, 3805z-6; C.L. 1807, 6820; C.L. 1915, 8918; C.L. 1929, 11853.

486.116 Shares deemed personalty; transfer. [M.S.A. 22.1646]

Sec. 16. The shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company.

HISTORY: How 38952-7:—C L 1897, 6821;—C L 1915, 8919;—C L 1929, 11854.

Act 283, 1905, p. 452; Eff. Sept. 16.

AN ACT to authorize the formation of corporations for the purpose of damming, excavating, constructing and maintaining water courses with water power appurtenant thereto, for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying water and water power, electricity and electric power, and all and every kind of power for mining, milling, manufacturing, domestic, municipal and agricultural purposes, and for the purpose of transportation and for all other purposes in the upper peninsula of Michigan.

The People of the State of Michigan enact

486.201 Power corporations in upper peninsula; incorporators, powers. [M.S.A. 22.1651]

Sec. 1. That any number of persons may form themselves into a corporation for the purpose of damming any stream or streams, and of excavating and constructing, maintaining, repairing and improving any stream or canal already existing, or which they may wish to excavate and construct, with water power appurtenant thereto, and may own, lease, use and control the same for the purpose of accumulating, storing, manufacturing, conducting, using or selling, furnishing and supplying water and water power, electricity and electric power, and all and every kind of power for any and all purposes, and may acquire, hold, lease and convey lands or water power as may be necessary or convenient for the purposes above specified in the upper peninsula of Michigan, by complying with the following requirements.

HISTORY: CL 1915, 8920;-CL 1929, 11855.

486.202 Same; certificate, acknowledgment, contents, recording, filing.

M.S.A. 22.1652]

Sec. 2. Such persons, under their hands and seals, shall make a certificate which shall specify:

First, The name of the corporation;

Second, A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;

Third, The county or counties within this state in the upper peninsula thereof, in which such canal is to be excavated and constructed, and the operations of said company carried on;

Fourth, The business and object of said company in general terms;

Fifth, The names and places of residence of the stockholders, and the number of shares held by each of them respectively;

Sixth, The names of the first directors, being not more than 7 and not less than 3;

Seventh, The place in this state where their office for the transaction of business is located;

Eighth. The term of existence of such corporation, which certificate shall be acknowledged as deeds are required to be acknowledged, and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state.

HISTORY: C L 1915, 8921:-C L 1929, 11856.

486.203 Same; body corporate; governing law. [M.S.A. 22.1653]

Sec 3. Upon complying with the provisions of the last preceding section such company shall be a body corporate by the name designated in said certificate, and shall be subject to and governed by all the general provisions relating to corporations embraced in chapter 230 of the Compiled Laws of the state of Michigan, now in force, so far as the same shall be applicable thereto.

HISTORY: C.L. 1915, 8922;—C.L. 1929, 11857.

NOTE: Ch. 230 of C.L. 1897, above referred to, contained the following provisions which have not been repealed or re-enacted: Compilers' § \$ 450.504-450.525, 450.601, 450.631 to 450.651, 548.151 and 548.152.

486.204 Directors; powers, election, term, qualification. [M.S.A. 22.1654]

Sec. 4. The business and property of such company shall be managed and directed by a board of not less than 3 nor more than 7 directors, who shall be elected annually, and at such time and place as the by-laws of said company may direct. No person shall be a director unless he is a stockholder in the corporation.

HISTORY: C L 1915, 8923;—C L 1929, 11858.
ELECTIONS FOR DIRECTORS: See Act 112 of 1885, being Compilers' \$ 450.651.

486.205 Same; calling of election. [M.S.A. 22.1655]

Sec. 5. In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

HISTORY: CL 1915, 8924:- CL 1929, 11859

486.206 Same; majority control. [M.S.A. 22.1656]

Sec. 6. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

HISTORY: C L 1915, 8925; -- C L 1929, 11860.

486.207 Subscriptions; increase in capital, procedure. [M.S.A. 22.1657]

Sec. 7. The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount mentioned in their articles of association shall be subscribed, and whenever in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect com-

pletion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors, with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of the stockholders to provide for such increase, and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified and filed as hereinbefore required in the case of original articles of association.

HISTORY: C L 1915, 8926; - C L 1929, 11861

486.208 Same; calling in; sale, procedure; proceeds, disposition; purchaser's rights. [M.S.A. 22.1658]

Sec. 8. The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places as they shall deem proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors, at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county: Provided, That if said stockholder shall reside in this state, the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county. If no newspaper be published in the county in which such corporation transacts their business, then it shall be published in the newspaper in the city of Detroit which shall have at the time the largest circulation; and the proceeds of such sale shall be at first applied in payment of the installment called for, and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder to the extent of the shares so bought.

HISTORY: C L 1915, 8927: - C L 1929, 11862

486.209 Corporate powers. [M.S.A. 22.1659]

Sec. 9. Every such corporation, organized as hereinbefore prescribed, shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, to cause such examinations and surveys for all proposed improvements, to be made as may be necessary to prepare for the work to be done;

Second. To acquire and by grants and donations to receive, enter upon, take, hold and use all such lands and real estate and other property as may be necessary in the business of such company;

Third, To flood lands belonging to said company by constructing the necessary dams in any canal, or in creeks, streams or other water courses;

Fourth, To issue its construction bonds to an amount not exceeding 50 per cent of its capital stock, bearing a rate of interest not above 6 per cent, and payable at any such time or times as the board of directors may determine on approval of a majority in interest of the stockholders voting at any regular or called meeting of their body.

HISTORY: C.L. 1915, 8928;—C.L. 1929, 11863

486.210 Power to construct railroad, telegraph or telephone lines; holding of realty. [M.S.A. 22.1660]

Sec. 10. Said corporation may, in the exercise of its discretion, erect, maintain and operate such railroads as may be necessary for connecting manufacturing establishments situated upon or connected with its premises, or enjoying power privileges from it with any line of railroad or any harbor, and such power lines, telegraph lines or telephonic lines as may be reasonably necessary or convenient in the business of said corporation. Said corporation may acquire and hold such tracts of land along the line of its canal and water courses as may be reasonably necessary or convenient for the conveying of water or electricity or other power and storing it and dispensing and dividing it among those who wish to purchase or lease it for any of the purposes mentioned in this act, or for the purpose of erecting manufactories or mills or other commercial establishments.

HISTORY: CL 1915, 8929; -- CL 1929, 11864

486.211 Furnishing and use of water or power; compensation; right to sue and be sued. [M.S.A. 22.1661]

Sec. 11. Such company may furnish and sell water, water power, electricity or electric power, and any and all other forms of power to other persons or companies for any and all purposes on such terms as shall be agreed upon, or it may use the same for such purposes itself. Any person or corporation receiving, using or enjoying any benefit from the operations or improvements of any company organized under this act shall pay to said company a reasonable compensation for all such benefits used or enjoyed. It is authorized to sue and be sued in any proper court in this state, the same as a natural person.

HISTORY: C.L. 1915, 8930;—C.L. 1929, 11865. SERVICE OF PROCESS: See (Jud. Act) Compilers' § 613.29

486.212 Injury to stream or property; penalty. [M.S.A. 22.1662]

Sec. 12. If any person shall wilfully obstruct any stream or waters improved, or in use under the provisions of this act, or any part thereof, or shall wilfully destroy or injure any buildings, piers, dams, fixtures, banks, power lines or other constructions in use by and belonging to said company, such person or persons so offending shall, for every offense, be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

HISTORY: CL 1915, 8931; -CL 1929, 11866.

486.213 Annual report; contents. [M.S.A. 22.1663]

Sec. 13. On or before the first Monday in July in each year it shall be the duty of the directors of every company formed under this act to report to the secretary of state, under the oath of the secretary and at least 2 of the directors, the improvements made by such company, the cost of such improvements, the amount of money expended, the amount of the capital of the company, how much of the same is paid in, and how much has been expended, the whole amount of tolls or earnings expended on such improvements, the amount of money received the previous year for tolls, and from all other sources, stating each separately, the amount set apart for repairs, the amount of dividends paid and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued. HISTORY: CL 1915, 8932;—CL 1929, 11867.

486.214 Real property; purchase, holding, disposal; personal property, disposal. [M.S.A. 22.1664]

Sec. 14. Each and every corporation formed under this act shall have authority to purchase and hold land in amount not to exceed 3,000 acres adjacent to or within convenient distance of any canal, stream or dam, constructed under the provisions of this act, for the purpose of platting and selling the same to manufacturers, their operatives or to other persons, and shall have the authority to lease, mortgage, sell, or otherwise dispose of real or personal property.

HISTORY: CL 1915, 8933;-CL 1929, 11868.

486.215 Stockholder's liability; recovery prerequisites. [M.S.A. 22.1665]

Sec. 15. The stockholders of every company organized in pursuance of this act shall be jointly and severally personally liable for the payment of all debts and demands against such association which shall be contracted, or which shall be or shall become due during the time of their owning such stocks, for any labor or services done or performed for such company, but no stockholder shall be proceeded against for the collection of any debt or demand against such company until execution on judgment for such labor and services shall have been returned unsatisfied, unless such association shall be dissolved.

HISTORY: CL 1915, 8934;-CL 1929, 11869.

486.216 Shares deemed personalty; transfer. [M.S.A. 22.1666]

Sec. 16. The shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company.

HISTORY: C L 1915, 8935;—C L 1929, 11870.
COMPILERS' NOTE: This section is probably superseded by the uniform stock transfer act, Act 106 of 1913, being Compilers' § § 441.1 to 441.25.

Act 113, 1869, p. 188; Imd. Eff. April 3.

AN ACT to authorize the formation of companies for the introduction of water into towns, cities and villages, in the state of Michigan.

The People of the State of Michigan enact:

486.301 Water-works in municipalities; incorporators; powers of corporation. [M.S.A. 22.1681]

Sec. 1. That whenever the common council of any city or incorporated village, or the municipal authority of any town in this state shall, by resolution, declare that it is expedient to have constructed works for the purpose of supplying such city, village or town, and the inhabitants thereof with water, but that it is inexpedient for such city, town or village, under the power granted in its charter, to build such works, it shall be lawful for any number of persons, not less than 5, to organize a company for the construction of such water-works, or for any company previously organized to construct such water-works under the provisions of this act, and such corporation shall have all the powers and privileges perscribed in the act in regard to corporations, being Chapter 55, of Revised Statutes of 1846, and Chapter 73, of the Compiled Laws. They shall be capable of suing and being sued in any court of this state; may have a common seal, and alter and amend the same, at pleasure; may elect, in such a manner as they may determine, all necessary officers; may fix their compensation and determine their duties, and make, from time to time, such by-laws, not inconsistent with the constitution and laws of this state, as a majority of the stockholders shall choose

HISTORY: CL 1871, 3355;—How. 3110;—CL 1897, 8500;—CL 1915, 11282;—CL 1929, 11875.

NOTE: Ch. 55, above referred to, is Compilers' § 450.504 et seq.

WATER POWER AND WATER SUPPLYING COMPANIES: Specifically excepted from the provisions of Act \$4 of 1921, except as otherwise therein provided, see Sec. 8 of Ch. 1 of Pt. 1, being C L 1929, 9950. See also Compilers' \$ 450.3, as to exemption from corporation code.

WATER WORKS SYSTEMS: Supervision, see Compilers' \$ 325.201 et seq.

486.302 Certificate, acknowledgment, contents, filing and recording; body corporate, name. [M.S.A. 22.1682]

Sec. 2. Any number of persons not less than 5, who shall associate according to the provisions of this act, under any name assumed by them, to form a company for the purpose of supplying any city, town or village, or the inhabitants thereof, with water for any and all purposes, shall under their hands and seals, make and acknowledge before some person authorized by the laws of this state to take acknowledgments of deeds, a certificate which shall specify

First. The name by which such company shall be known;

Second. The object for which such company shall be formed;

Third. The amount of capital stock of such company, and the number of shares into which the same is divided;

Fourth. The amount of capital stock actually paid in;

Fifth. The names of the stockholders, their respective residences, and the number of shares held by each;

Sixth. The name of the city, town or village, and county in which the operations of the company are to be carried on, and the place in this state where the office for the transaction of business is located;

Seventh. The term of years the corporation is to exist, not exceeding 30;

And shall cause the same to be filed with the secretary of state of this state, and recorded in the county clerk's office of the county or counties in which such company shall conduct its business, they shall become incorporated under the name and style provided in such certificate, and are hereby authorized to carry on the operations named in such certificate of incorporation, and shall with their successors and assigns be deemed a body politic and corporate in fact and in name, under any name assumed by them in their articles of association.

HISTORY: C.L. 1871, 3356;—How. 3111;—C.L. 1897, 8501;—C.L. 1915, 11283;—C.L. 1929, 11876. EXTENSION OF CORPORATE LIFE: See Act 82 of 1901, being Compilers' § § 486.401 and 486.402.

486.303 Property; holding. [M.S.A. 22.1683]

Sec. 3. Every such corporation, shall, by their name, have power to acquire and hold all such real and personal estate as shall be necessary for carrying on the business of said corporation.

HISTORY: CL 1871, 3357;—How. 3112;—CL 1897, 8502;—CL 1915, 11284;—CL 1929, 11877.

486.304 Capital stock. [M.S.A. 22.1684]

Sec. 4. The amount of capital stock in every such corporation shall be fixed by the stockholders in their articles of association, but shall in no case be less than 10,000 dollars; said stock may be increased from time to time as may be directed by the stockholders; and when the same is so increased, the same record shall be made of the fact, with the name of the stockholders; as required by section 2 of this act; and all the stock of said company shall be divided into shares of 50 dollars each.

HISTORY: C.L. 3358; How, 3113; C.L. 1897, 8503; C.L. 1915, 11285; C.L. 1929, 11878.

486.305 Officers, election, term, powers; quorum of stockholders; right to vote. [M.S.A. 22.1685]

Sec. 5. The officers shall be elected by the stockholders, when 50 per cent of the stock shall be subscribed, and 10 per cent, of the amount subscribed paid in, and after a notice of at least 2 weeks has been given in some newspaper printed in the place where the said business is to be located, said notice to be signed by at least 3 stockholders; and the officers elected shall hold their office 1 year, and until their successors are elected; said officers shall have the general superintendence of the affairs of the company, and the management of the business and may call special meetings of the stockholders, and a majority of the stockholders shall constitute a quorum at all meetings and at all meetings each share shall be entitled to 1 vote either in person or by proxy.

HISTORY: CL 1871, 3359;-How. 3114;-CL 1897, 8504;-CL 1915, 11286;-CL 1929, 11879.

486.306 Powers of corporation. [M.S.A. 22.1686]

Sec. 6. Any corporation formed under this act shall have power to introduce water into any town, city or village in the state named in their articles of incorporation, and where the said corporation is located, for public or private buildings or for other purposes; and for that purpose they are authorized and empowered to acquire and hold real estate in such town, city or village, or contiguous thereto, if necessary, and to erect and maintain all necessary and convenient buildings, fixtures, machinery, and other appurtenances, incident or necessary, and to lay water pipes in and through the streets, avenues, lanes, alleys or squares of said city, town or village, with the consent of the municipal authorities of the city, town or village, under such reasonable regulations as they may prescribe; and to make all ordinances and by-laws necessary and proper to carry into effect the foregoing powers; said corporation by their directors, agents, servants, or other persons employed, may enter upon the lands of any person or persons which may be necessary for said purposes, and may take the water from any springs, ponds, rivers, fountains or streams and divert and conduct the same to said city, and may lay and construct any pipes, conduits. aqueducts, wells, reservoirs or other works or machinery necessary or proper, and authorized for said purposes, upon any lands or property entered upon, purchased, taken or held. Said corporation may, as aforesaid, enter upon any lands, streets, highways, lanes, alleys, public squares through which they deem it proper to carry water from said springs, ponds, rivers, fountains, streams, and reservoirs, and lay and construct any pipes, conduits aqueducts and other works for said purposes, leaving said lands, streets highways, lanes or public squares in the same condition, as nearly as may be, as they were before said entry; but the said company shall not, within the bounds of such city, town or village, lay and construct said pipes, conduits, aqueducts and other works through any private garden, courtyard or building-lot, without the written consent of the exper thereof.

HISTORY: CL 1871, 3360;-How. 3115;-CL 1807, 8505 - 473, 1915, 11287;-CL 1929, 11880.

486.307 Survey and map, signing, filing; right of entry. [M.S.A. 22.1687]

Sec. 7. Before entering, taking or using any lands for the purposes of this act, the directors of the company shall cause a survey and map to be made of the lands intended to be taken, or entered upon for any of said purposes, and by which the lands of said owners

or occupants intended to be taken or used shall be designated, and which map shall be signed, by the surveyor or engineer making the same, and by the president of said company, and be filed in the office of the clerk of the county. The company, by any 2 of its officers, agents or servants, may enter upon any lands for the purpose of making any examination and for the purpose of making said survey and map

HISTORY: CL 1871, 3361;-How. 3116;-CL 1897, 8506;-CL 1915, 11288;-CL 1929, 11881.

486.308 Condemnation proceedings. [M.S.A. 22.1688]

Sec. 8. In case said company cannot agree with the owners or occupants of any lands or water, intended to be taken or used as aforesaid, for the purchase thereof, said company may, for the purpose of acquiring the necessary title and right to said lands or water, present a petition to the circuit court of the county where the company is located, at any term thereof, or during the vacation of the term, to any judge of a court or record, praying for the appointment of 3 commissioners; and such proceedings shall be had upon said petition as are prescribed in the act to provide for the incorporation of railroad companies, being chapter 67 of the Compiled Laws, for the purpose of acquiring such title or right, except that the said circuit court or judge shall appoint disinterested and competent freeholders residing in the township or municipality where the said premises are situated HISTORY: C.L. 1871, 3362;—How. 3117;—C.L. 1897, 8507;—C.L. 1915, 11289;—C.L. 1929, 11882

486.309 Stock deemed personalty; certificates, transfer; report to assessing officer.

[M.S.A. 22.1689]

Sec. 9. The stock of every such corporation shall be deemed personal property, and certificates of stock shall be issued to each stockholder on the full amount of his subscription being paid in; the said certificates of stock may be transferable, but the transfer shall not be valid unless a record shall be made of the same in the books of the company, in such form as the directors shall prescribe; and it shall be the duty of the directors to make out a written statement of all the stockholders, and the amount of stock held by each, when legally called upon by the proper assessing officer HISTORY: C L 1871, 3363:—How. 3118;—C L 1897, 8508;—C L 1915, 11290:—C L 1929, 11883.

486.310 Subscriptions, calling in; sale of stock; proceeds, disposition; rights of

purchaser. [M.S.A. 22.1690]

Sec. 10. The directors may call in subscriptions to the capital stock of such corporation, by installment, in such portions as they deem best, by giving notice thereof as provided by the by-laws; and in case any stockholder refuses or neglects to pay any such instalment for the space of 60 days after the same shall have become due and payable, and after he shall have been notified thereof, the stock of any such delinquent stockholder may be sold, by order of the directors, at public auction at the office of said company, after 30 days' notice, published in some newspaper in the county where the corporation is located; and the proceeds of said sale shall be first applied in the payment of the installment called for, and the expense on the same, and the residue shall be refunded to the former owner thereof, and such sale shall entitle the purchaser to all the privileges of a stockholder to the extent of the share so bought.

HISTORY: CL 1871, 3364; How. 3119; CL 1897, 8509; CL 1915, 11291; CL 1929, 11884.

486.311 Stockholder's liability; recovery prerequisites; contribution.

[M.S.A. 22.1691] Sec. 11. The stockholders of all corporations organized under this act shall be individually liable for any labor or services done or performed for said company, and they shall also be liable, as aforesaid, for the payment of all other debts or obligations contracted or incurred by said corporation during the time that they were stockholders, to the amount of all unpaid installments of stock held by them respectively, which liability may be enforced against any stockholder founded on this statute at any time after an execution shall be returned not satisfied against said company: Provided, always, That if any stockholder shall be compelled by any such action to pay the debts of any creditor or any part thereof. he shall have the right to call upon all the stockholders to contribute their part of the sum so paid by him as aforesaid, and may sue them jointly or severally, or any number of them, and recover in such action the ratable amount due from the person or persons so sued.

HISTORY: CL 1871, 3365;—How. 3120;—Am. 1883, p. 5, Act 8, Eff. March 13;—Am. 1887, p. 62, Act 54, Eff. Sept. 28;—CL 1897, 8510;—CL 1915, 11292;—CL 1929, 11885.

486.312 Contract between municipality and company; municipal obligations. | M.S.A. 22.1692 |

Sec 12. It shall and may be lawful for the municipal authorities of any city, village or town in which any company is or shall be formed for the purpose of supplying such city, village or town and the inhabitants thereof with water, to contract and agree with such company for the supply of water for public, municipal or other purposes, and for the time and mode of payment, and may issue their obligations therefor.

HISTORY: C.L. 1871, 3366;—Am. 1873, p. 2, Act 2, Imd. Eff. Jan. 22;—How. 3121;—C.L. 1897, 8511;—C.L. 1915, 11293;—C.L. 1929, 11886.

486.313 Annual and special meetings of stockholders. [M.S.A. 22.1693]

Sec. 13. There shall be an annual meeting of the stockholders at such time and place as the by-laws of the corporation shall designate, for the election of directors and the transaction of business of the corporation; special meetings of the stockholders may be called by the directors.

HISTORY: C.L. 1871, 3367; -How. 3122; -C.L. 1897, 8512; -C.L. 1915, 11294; -C.L. 1929, 11887.

486.314 Officers; designation, election, bonding. [M.S.A. 22.1694]

Sec. 14. The officers of such company shall be a president, who also shall be a director, a secretary, a treasurer, and such other officers, agents and servants, as the board of directors shall deem necessary for the transaction of the business of the company; such officers shall be elected annually, by the directors, and may be required to give bonds, with penalty and sureties, to the approval of the board of directors.

HISTORY: CL 1871, 3368; How, 3123; CL 1897, 8513; CL 1915, 11295; CL 1929, 11888.

486.315 Ordinances; use of streets, etc.; rates. [M.S.A. 22.1695]

Sec. 15. Whenever any such company, shall have been duly organized, it shall be the duty of the common council of any such city or village or the proper authorities of any such town, by ordinance, to grant to such company such right to the use of the streets. alleys, wharves (if any) and public grounds of said city village or town as shall be necessary to enable such company to construct the proper works for the suply [supply] of water for the use of such city village or town and its inhabitants; and the said common council may in such ordinance, prescribe such just and reasonable terms, restrictions and limitations upon such company, in reference to the manner of using streets, alleys, wharves and public grounds, to the charging and collecting of tolls, water rents or other compensation for the supply of water, to be furnished by such company, to such city, town or village and its inhabitants, as it may deem proper, to guard against the improper use of such streets, alleys, wharves and public grounds, and to protect said city, town or village, and its inhabitants from the imposition of undue or excessive rates or charges for the supply of water; but no such restriction shall be imposed which will prevent such company realizing upon its capital stock and annual income or dividend of 10 per cent, after paying the cost of all necessary repairs and expenses, interest on all moneys borrowed and 5 per cent. per annum, into sinking funds, for the extinguishment of funded debts.

HISTORY: C.L. 1871, 3369;—How, 3124;—C.L. 1897, 8514;—C.L. 1915, 11296;—C.L. 1929, 11889

486.316 Purchase of corporate rights and property by municipality; arbitration. [M.S.A. 22.1696]

Sec. 16. From and after the expiration of 25 years from the time of the organization of such company, the common council of the city town or village, for which the said company may have erected its works, shall have the right and privilege of purchasing, from such company, all its buildings, reservoirs, fixtures, apparatus and property of such company, with all its corporate rights and privileges, at such price as may be agreed upon; and in case of disagreement between the parties, the price to be ascertained and determined by 5 disinterested persons, not residents of said city or village, 2 of whom shall be chosen by said common council, 2 by the board of directors of such company, and the fifth by the 4 so chosen, who when thus chosen and assembled shall have power to determine finally and conclusively, the amount which such town city or village shall pay for the rights, property and franchizes of such company, as aforesaid.

HISTORY: CL 1871, 3370;—How. 3125;—CL 1897, 8515;—CL 1915, 11297;—CL 1929, 11890.

486.317 Municipality as stockholder; issuance of bonds, tax levy; certain corporations as stockholders [M.S.A. 22.1697]

Sec. 17. Any such city, town or village may become a stockholder in any such company whenever the common council shall so direct, by resolution duly entered upon its minutes, after the question of so doing shall have been first submitted to the electors of said city, town or village, in such manner as the common council may have prescribed, and the said electors shall have voted in favor thereof. Such resolution shall specify the number of shares to be taken, and shall require the mayor, president or other municipal officer to carry out the directions by subscribing for the number of shares indicated upon the books of the company. Any railroad, gas, manufacturing or other corporation organized under any law of this state, and any insurance company organized under the laws of any state or country doing business in this state, may subscribe for and own stock in such company, and be entitled to all the rights and privileges, and shall be subject to all the liabilities of stockholders. It shall be lawful for any such city town or village to issue bonds, payable at such time as the common council shall direct, and bearing interest at a rate not exceeding 8 per cent. per annum, and to negotiate the same upon the best terms they can obtain. Such cities, towns and villages shall have power in addition to that given by their charters, to levy taxes not exceeding 2 per cent, on the assessed valuation per annum, sufficient to meet the principal and interest falling due on such bonds

HISTORY: CL 1871, 3371; How. 3126: CL 1807, 8516; CL 1915, 11298. CL 1929, 11891.

486.318 Company fully organized; construction, financial arrangements. [M.S.A. 22.1698]

Sec. 18. Any such company shall be deemed to be fully organized whenever half the capital stock named in its articles of association shall have been in good faith subscribed and 10 per cent. thereof paid in and may thereupon enter on the work of construction; and in order to raise moneys for that purpose, it shall have power to borrow money, to issue bonds or other evidences of indebtedness, to execute mortgages or trust deeds, as may be deemed necessary for that purpose, and it may also issue a preferred stock, it a majority of the stockholders of the company shall vote that it is advisable so to do; but in the case that such city, town or village is a stockholder, no such mortgage, trust deed, or issue of preferred stock shall be valid without the assent thereto of the common council of said city or village or the municipal authorities of such town and in such case it shall be deemed a mail emeanor for the directors of said company to contract debts to any amount in excess of the means provided for, by subscriptions to stock, and the estimated net receipts of the company from its rates for 1 year, in advance, except they shall have first obtained the assent thereto of the said common council.

HISTORY: CL 1871, 3372;—How. 3127;—CL 1897, 8517;—CL 1915, 11299;—CL 1929, 11892.

Act 86, 1893, p. 92; Eff. Aug. 28.

AN ACT to authorize certain water supply companies, now or hereafter organized, to also operate electrical plants in connection with their waterworks systems.

The People of the State of Michigan enact:

486.351 Water supply companies; right to purchase and operate electrical plants. [M.S.A. 22.1711]

Sec. 1. That any company or corporation hereafter organized for the purpose of supplying water to any city, town or village in this state, the population whereof does not exceed 25,000 inhabitants according to the last official census thereof preceding the organization of such company or corporation, shall, by specifying the same in its articles of association, have the right to also produce and supply any such city, town or village, and the inhabitants thereof, with electricity for lighting, heating and motive purposes and any other purpose for which the same is, or may become, of practical use. And to that end shall also have the right to purchase from any individual, copartnership or corporation owning or operating any electricity producing plant, its said plant, together with any or all of the property franchises and rights connected therewith, to be operated in the city, town or village in which such company is to be located and operating.

HISTORY: CL 1897, 8518;—CL 1915, 11302;—CL 1929, 11893.

486.352 Same; amendment of articles to show right. [M.S.A. 22.1712]

Sec. 2. Any company or corporation heretofore organized and doing business under and by virtue of the general laws of this state, and operating a waterworks system in any city, town or village in this state, the population whereof shall not exceed 25,000 inhabitants, according to the last official census preceding the filing of its amended articles of association so as to show the added purpose, have the right to erect, purchase, own and operate a plant or plants, in addition to its waterworks system and plant, to produce and supply electricity as mentioned in section 1 hereof.

HISTORY CL 1897, 8519; - CL 1915, 11303; CL 1929, 11894

486.353 Powers of company. [M.S.A. 22.1713]

Sec. 3. Every such company or corporation shall have the right to acquire and hold all such real and personal property as shall be necessary, in addition to that provided for by the general laws of this state under which it is organized, for the carrying on of the business so added by virtue of the provisions of this act, and shall have full power to produce, generate, furnish and sell electricity for lighting, heating motive and such other purposes, as the same may be desired by any city, town or village within which such company carries on its business, or by the inhabitants thereof. And such company or corporation shall have the power to lay, construct and maintain conductors and poles, and stretch wires for the conducting of electricity through the streets, alleys, lands and squares of any such city, town or village, with the consent of the municipal authorities thereof, under such reasonable regulations as they may prescribe; and such company or corporation may make and enforce all such contracts, by-laws and rules as may be deemed necessary and proper to carry into effect the foregoing powers.

HISTORY: CL 1897, 8520;—CL 1915, 11304;—CL 1929, 11895

Act 82, 1901, p. 118; Imd. Eff. April 23.

AN ACT to provide for renewing the incorporation of companies organized for the purpose of the introduction of water into towns, cities and villages.

The People of the State of Michigan enact:

486.401 Continuance of corporate life of companies to supply water to municipalities; procedure, evidence. [M.S.A. 22.1721]

Sec. 1. It shall be lawful for any corporation heretofore or hereafter organized under the laws of this state for the purpose of the introduction of water into towns, cities and villages, whose corporate existence is about to terminate by limitation of law, at its annual meeting next preceding, or at a special meeting called for that purpose, to be held within 1 year immediately preceding the date of such termination, by a vote of 2/3 of its capital stock, to direct the continuance of its corporate existence for such further term, not exceeding 30 years, as may be expressed in a resolution passed for that purpose. Upon the adoption of such resolution by the stockholders, at such meeting, it shall be the duty of the president and secretary of the corporation to make, sign and acknowledge duplicate articles of association, as in case of a new corporation, to which shall be appended a copy of the proceedings of such stockholders' meeting, certified by the secretary and verified by his oath, which articles of association shall be filed with the secretary of state and with the county clerk of the county where the corporation carries on its business, and be by them recorded in their respective offices at the expense of said corporation, and the copies so filed, the record thereof, or a certified copy of either of such records, shall be prima facie evidence of the facts therein recited.

HISTORY: CL 1915, 11300;-CL 1929, 11896.

486.402 Renewed corporation; rights and duties. [M.S.A. 22.1722]

Sec. 2. The renewed term of such corporation shall begin from the expiration of the former term thereof, and the corporation thus renewed shall hold and own all the property held and owned by the corporation before renewal, and shall be liable to all its debts,

liabilities and obligations, and entitled to all its rights, privileges and franchises, as fully as if the former corporate term had not expired; and the directors and officers, who were such in fact at the time of the meeting, shall hold and continue in their offices until their successors shall be elected and shall qualify: Provided, nevertheless, That if the call for the meeting to extend the corporate term shall embrace a notice that a number of the directors will be elected at such meeting, such election may be then held accordingly, and the directors then elected shall, when they shall qualify, become and be the directors of such renewed corporation: Provided further, That nothing herein contained shall be construed as extending any franchise granted by any municipality for a period of years longer than the original grant.

HISTORY: CL 1915, 11301;—CL 1929, 11897.

Act 6, 1956 (Ex. Ses.), p. 10; Imd. Eff. July 31.

AN ACT authorizing the formation of corporations for the purpose of supplying to, distributing and selling water to a township or townships and giving to such corporations rights to take water from the Great Lakes, Lake St. Clair, and the bays thereof; authorizing a township or townships to contract with such corporations for the purchase of water by said township or townships and authorizing any township to purchase waterworks, systems, installations and real and personal property of such corporations, and authorizing such township or townships to pass ordinances with respect thereto.

The People of the State of Michigan enact:

486.501 Corporations to supply water to townships; incorporation. [M.S.A. 5.2535(1)]

Sec. 1. Whenever the township board of a township or the township boards of 2 or more townships shall, by resolution, declare that it is expedient to have constructed a works, plant or system for the supplying of water to such township or townships or the inhabitants thereof, but that it is inexpedient for such township or townships to build such works, plant and system, or either of the same, or some part or parts thereof, it shall be lawful for one or more persons to form a corporation to construct such waterworks, plant and system or some part or parts thereof under the provisions of this act, and any corporation so formed may incorporate under the provisions of, be subject to all of the provisions of, and carry on its business pursuant to the provisions of, the general corporation laws of this state pertaining to corporations for pecuniary profit.

486.502 Same; contracts; use of highways for mains, consent. [M.S.A. 5.2535(2)]

Sec. 2. Any corporation so formed under this act shall have the power to contract with any township or townships for the sale of water to said township or townships; and for that purpose it is authorized and empowered to buy, hold and sell real and personal property and to erect and maintain all necessary and convenient buildings, fixtures, machinery and other appurtenances, and, subject to the provisions of this act, to lay water pipes or mains in, across and through the public streets, highways or alleys in said township or townships: Provided, however, That before laying any pipe or main in, across or through any public street, highway or alley such corporation shall first procure the written consent of the state highway commissioner if such street, highway or alley be under his control and jurisdiction, or of the board of county road commissioners if such street, alley or highway be under the control and jurisdiction of such board, or of the township board of the township if the street, highway or alley be under the control and jurisdiction of such township board.

486.503 Great Lakes waters; intakes. [M.S.A. 5.2535(3)]

Sec. 3. Such corporation may take water from any of the Great Lakes and from Lake St. Clair, or any of the bays thereof and divert and conduct such water to any such township or townships. Such corporation shall have the right to construct and maintain such intakes, cribs and other machinery, and works on or in said waters as may be necessary to divert said water, and may lay and construct any pipes, conduits, aqueducts, wells or reservoirs or other works and machinery necessary for or incident to said purposes.

486.504 Townships; contracts, ordinances, hearing. [M.S.A. 5.2535(4)]

Sec. 4. It shall be lawful for the township board of any township for and on behalf of that township to contract with any such corporation for the purchase of water for public, municipal or other purposes and to provide in said contract for the time and manner of payment and any and all other matters incident thereto. Such contract may further provide for the acquisition of all or some of the physical properties of any such corporation at such time or times, upon such terms and in such manner as to the township board shall seem just and proper. The township board of any township, before entering into any such contract as hereinbefore provided, shall pass a resolution declaring its intent to proceed under the provisions of this act and to enter into 1 or more contracts as in this act contemplated. Such resolution shall set forth substantially the terms and provisions of such contract and shall provide for a public hearing upon all matters pertaining thereto. Such contract shall be effective for a period of not to exceed 50 years. Such public hearing shall be held within 20 days after the passage of such resolution. Notice of the time and place of such public hearing shall be given at least 10 days prior thereto by publication of such notice in a newspaper of general circulation in such township and by posting such notice in 3 public places within such township. After such public hearing the township board by the affirmative vote of a 2/3 majority of its members-elect may pass an ordinance adopting the provisions of this act and may by such ordinance authorize 2 or more of its members on behalf of the township to enter into such contract with such corporation. Any ordinance adopted hereunder, together with a notice or certificate of its adoption, shall be published in a newspaper having general circulation within such township within 15 days following its passage and such ordinance shall become effective within 30 days next following the date of its publication: Provided, however, That if within 30 days from the publication of such ordinance, a petition signed by not less than 10% of the registered electors residing within the limits of such township shall have been filed with the township clerk requesting a referendum upon the effectiveness of such ordinance, then such ordinance shall not become effective until approved by vote of a majority of the electors of such township qualified to vote and voting thereon, at a general or special election. Signatures on any such petition shall be verified by some person or persons under oaths as the actual signatures of persons whose names are signed thereto, and the township clerk shall have the same power to reject signatures and petitions as city clerks possess by law. The number of registered electors in such township shall be determined by the township registration books.

486.505 Same, execution of contract. [M.S.A. 5.2535(5)]

Sec. 5. As soon as any such ordinance becomes effective the township board may authorize the execution of any such contract as is herein contemplated on behalf of the township by any 2 or more of its officers, and when such contract has been properly executed by such corporation the same shall constitute a binding agreement and obligation on the part of the township and upon the part of the said corporation.

486.506 Same; renewal, extension or amendment of contract. M. S.A. 5.2535(6)]

Sec. 6. After any such contract has once been entered into, the same may be renewed, extended or amended, but any renewal, extension or amendment must be done and made in full compliance with all of the provisions of this act the same as though a new contract was being entered into in the beginning.

486.507 Purchase of waterworks. [M.S.A. 5.2535(7)]

Sec. 7. At any time after the construction of a waterworks by a corporation in furtherance of its contract between the corporation and a township for the sale of water by the corporation to the township, any township so contracting with the corporation may, upon an affirmative vote of a majority of the electors of such township qualified to vote

and voting thereon, at a general or special election, enter into a contract with the corporation for the purchase of all the waterworks, real and personal property and machinery of the corporation at such price and upon such terms as may be agreed upon. The purchase of the waterworks, goods and chattels and real and personal property of the corporation by any township shall be in accordance with the provisions of Act No. 116 of the Public Acts of 1923, as amended, being sections 41.411 to 41.414, inclusive, of the Compiled Laws of 1948, or any other act or acts which may be applicable and appropriate thereto.

486.508 Short title. [M.S.A. 5.2535(8)]

Sec. 8. This act shall be known and may be cited as the "township water system act of 1956".

PLAT REGULATIONS

Act 172, 1929, p. 467; Eff. Aug. 28.

AN ACT to revise the laws relating to the making, approving, filing, recording, altering and vacating of plats; to require the recording of plats on subdivided properties; to provide for reserving easements for utilities in vacated streets and alleys; to provide penalties for the violation thereof; and to repeal certain acts.

The People of the State of Michigan enact

560.5 Requirements of drawing and designations. [M.S.A. 26.435]

Sec. 5. There shall be on each plat a plain designation of the cardinal points and a correct scale. Such portion of the government survey as is intended to be platted shall be particularly set forth and described. When platted premises are not included in the legal subdivisions of the government survey then boundaries shall be defined by metes. bounds and courses. When a plat is bounded by an irregular shore line of a body of water, the bearings and distances of a closing intermediate traverse shall be given. This traverse shall extend across the land so that it intersects the side lines of the shore lots of the plat. The side lines of these lots shall be dimensioned to this traverse line. The lot dimensions paralleling the shore shall be given on this traverse line. This intermediate traverse shall be given in the written description and notation made that the plat includes all land to the water's edge or otherwise. The sections and parts of sections platted shall be designated by lines drawn upon the plat with appropriate letters and figures. In case of a subdivision of lots of a previous survey the outlines shall be designated upon the plat and shall be marked with appropriate letters and figures in ink of a different color than that in which the plat is drawn, or by black dotted lines. Plats may be made of unplatted land and land previously platted.

HISTORY: C.L. 1929, 13202;—Am. 1939, p. 789, Act 319, Eff. Sept. 29;—Am. 1941, p. 278, Act 183, Eff. Jan. 10, 1942.

560.24 Power to require agreement and bond for other improvements; rebate to proprietor. [M.S.A. 26.454]

Sec. 24. If a plat shall show certain improvements other than streets, parks and alleys, such as lagoons, slips, waterways, lakes, bays or canals which are not actually in existence at the time of consideration by the governing body, it may, as a condition for the approval of the plat, require the plattor to enter into an agreement providing for the construction of such other improvements within a reasonable time and require a cash deposit, certified check or surety bond to be given for the faithful performance of the agreement: Provided, That the county road commission shall rebate to the proprietor, as the work progresses, amounts of deposits equal to the ratio of the work completed to the entire project.

HISTORY: CL 1929, 13221

FLOWING WELLS-DAMAGES

Act 236, 1961, p. 418; Eff. January 1, 1963.

AN ACT to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act.

The People of the State of Michigan enact:

CHAPTER 29.

PROVISIONS CONCERNING SPECIFIC ACTIONS

600.2941 Artesian or flowing well; certain condition deemed nuisance, abatement, damages. [M.S.A. 27A.2941]

Sec. 2941. (1) Any artesian or flowing well, the water of which is unnecessarily allowed to run to waste in an unreasonable manner to the depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells supplied from the same head or reservoir, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provided by law for other nuisances or tortious acts.

Wells, unreasonable or unnecessary waste; abatement, damages.

(2) Where any well is supplied by a head, reservoir, stratum, or vein or by percolating waters common to other springs or wells, and the owner thereof or his lessee or licensee puts its waters to a use unreasonable or unnecessary, in view of the condition and situation of the land on which it is situated, and through such unreasonable or unnecessary use, lowers or depletes the head, pressure, or supply of water of any spring or well dependent on the same head, vein, or stratum, to the detriment or injury of the owner or any person entitled to the use thereof, the well so unreasonably and unnecessarily used, is a nuisance, and its owner and the owner of the land on which it is situated are subject to all the actions for abatement and damages in favor of the person or persons injured, as provided by law for other nuisances or tortious acts.

Judgment, contents, reopening.

(3) Where any order or judgment is rendered under this section, declaring any well a nuisance because of the waste or unreasonable use of its waters and directing the abatement thereof, such order or judgment shall specify in some practicable manner the daily amount or volume of water that may be used or allowed to flow therefrom without violating such order or judgment, and specify such reasonable time as to the court shall seem just within which the provisions thereof shall be carried into effect. Any such order or judgment may be reopened at any time after entry on the question of reasonable use on a proper showing of change of circumstances or other equitable reason therefor.

PENAL CODE

Act 328, 1931, p. 624; Eff. Sept. 18.

AN ACT to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

CHAPTER IX ANIMALS

750.57 Burial of dead animals. [M.S.A. 28.252]

Sec. 57. Burial of dead animals—Any person or persons who shall put any dead animal or part of the carcass of any dead animal, into any lake, river, creek, pond, road, street, alley, lane, lot, field, meadow or common, or in any place within 1 mile of the residence of any person or persons, except the same and every part thereof be buried at least 4 feet under ground, and the owner or owners thereof who shall knowingly permit the same to remain in any of the aforesaid places, to the injury of the health, or to the annoyance of the citizens of this state, or any of them, shall be guilty of a misdemeanor; and every 24 hours said owner may permit the same to remain after such conviction, shall be deemed an additional offense against the provisions of this section, a misdemeanor, punishable by a fine of not less than 50 dollars nor more than 100 dollars, or by imprisonment of not less than 30 days nor more than 90 days.

HISTORY: This section supersedes Sec. 1 of Act 70 of 1867, being CL 1871, 7734;—How. 9323;—CL 1897, 11432;—CL 1915, 15150;—CL 1929, 5306.

CHAPTER XV BOATS AND NAVIGATION

750.104 Fitting out vessel with intent to destroy. [M.S.A. 28.299]

Sec. 104. Fitting out vessel with intent to destroy the same—Any person who shall lade, equip or fit out, or assist in lading, equipping or fitting out any ship, boat or vessel, with intent that the same shall be cast away, burnt, sunk or otherwise destroyed, to injure or defraud any owner or insurer of such ship, boat or vessel, or of any property laden on board the same, shall be guilty of a felony.

HISTORY: This section supersedes Sec. 42 of Ch. 154 of the R. S. 1846, being C L 1857, 5786;—C L 1871, 7593;—How. 9164;—C L 1897, 11578;—C L 1915, 15323;—C L 1929, 16919.

750.105 False invoice of cargo. [M.S.A. 28.300]

Sec. 105. Making false invoice of cargo—The owner of any ship, boat or vessel, or of any property laden, or pretended to be laden on board the same, and any other person concerned in the lading or fitting out of any such ship, boat or vessel, who shall make out or exhibit, or cause to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels or other false estimates of any goods or property laden or pretended to be laden on board such ship, boat or vessel, with intent to injure or defraud any insurer of such ship, boat or vessel or property, or of any part thereof, shall be guilty of a felony.

HISTORY: This section supersedes Sec. 43 of Ch. 154 of the R. S. 1846, being C L 1857, 5787;—C L 1871, 7594;—How. 9165;—C L 1897, 11579;—C L 1915, 15324;—C L 1929, 16920.

750.106 False protest, making or procuring. [M.S.A. 28.301]

Sec. 106. Making or procuring false protest—Any master, or other officer or mariner of any ship, boat or vessel, who shall make or cause to be made, or shall swear to, any false affidavit or protest, and any owner or other person concerned in such ship, boat or vessel, or in the goods or property laden on board the same, who shall procure any such false affidavit or protest to be made, or who shall exhibit the same, with intent to injure, deceive or defraud any insurer of such ship, boat or vessel, or of the goods or property laden on board the same, shall be guilty of a felony.

HISTORY: This section supersedes Sec. 44 of Ch. 154 of the R. S. 1846, being C L 1857, 5788;—C L 1871, 7595;—How. 9166;—C L 1897, 11580;—C L 1915, 15325;—C L 1929, 16921.

750.107 Moored boat; breaking of lock or chain. [M.S.A. 28.302]

Sec. 107. Breaking lock, etc., of boat moored in lake, etc.—Any person or persons who shall wilfully and maliciously break any lock or chain fastened to any ship, boat or vessel, moored in any lake, river or watercourse of this state, shall be guilty of a misdemeanor.

HISTORY: This section supersedes Sec. 1 of Act 166 of 1869, being CL 1871, 7625;—How. 9198;—CL 1897, 11600;—CL 1915, 15355;—CL 1929, 16996.

750.108 Same; removing. [M.S.A. 28.303]

Sec. 108. Removing boat from fastenings, etc.—Any person who shall wilfully remove any ship, boat or vessel from their fastenings moored upon any lake, river, or watercourse in this state, without the consent of the owner, or who shall maliciously loose any ship, boat or vessel fastened by lock, chains or other fastening to the bank or shore of any lake, river or watercourse, and suffer the same to float away without the consent of the owner or person having in charge said ship, boat or vessel, or who shall rent or hire any such ship, boat or vessel, and shall without any cause leave such ship, boat or vessel, and abandon the same without giving the owner or owners, or person having charge thereof, notice of such abandonment, shall be guilty of a misdemeanor.

HISTORY: This section supersedes Sec. 2 of Act 166 of 1869, being CL 1871, 7626;—How. 9199;—Am. 1885, p. 55, Act 56, Eff. Sept. 19;—CL 1897, 11601;—CL 1915, 15356;—CL 1929, 16997.

750.109 Mooring vessel to buoy or beacon. [M.S.A. 28.304]

Sec. 109. Mooring vessel to buoy or beacon—Any person mooring any ship, boat or vessel to any of the buoys or beacons placed in any of the waters of the state, by the authority of the United States, or in any manner hanging on with a boat or vessel to any such buoy or beacon, shall be guilty of a misdemeanor.

HISTORY: This section supersedes Sec. 1 of Act 5 of 1869, being CL 1871, 7615;—How. 9196;—CL 1897, 11638;—CL 1915, 15404;—CL 1929, 16998.

750.109a Vessels, unauthorized possession, penalty. [M.S.A. 28.304(1)]

Sec. 109a. Any person who, wilfully and without authority, takes possession of or uses any vessel, as defined in Act No. 245 of the Public Acts of 1959, being sections 281.651 to 281.669 of the Compiled Laws of 1948, and any person who wilfully and without authority assists in or is a party to such taking possession of or use of a vessel belonging to another, is guilty of a misdemeanor.

HISTORY: Add. 1961, p. 367, Act 217, Eff. Sept. 8

CHAPTER XVI BREAKING AND ENTERING

750.110 Breaking and entering. [M.S.A. 28.305]

Sec. 110. Any person who shall break and enter with intent to commit any felony, or any larceny therein, any tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, structure, boat or ship, railroad car or any private apartment in any of such buildings or any unoccupied dwelling house, shall be guilty of a felony punishable by imprisonment in the state prison not more than 10 years. Any person who breaks and enters any occupied dwelling house, with intent to commit any felony or larceny therein, shall be guilty of a felony punishable by imprisonment in the state prison for not more than 15 years.

HISTORY: Am. 1929, p. 29, Act 13, Eff. Aug. 28. Am. 1964, p. 126, Act 133, Eff. Aug. 28. NOTE: This section supercedes Sec. 1 of Act 345 of 1925.

750.110b Dumping of garbage, oil, or rubbish from boats; penalty. [M.S.A. 28.304(2)]

Sec. 110b. Any person who discharges, dumps, deposits or throws or causes or permits the discharging, dumping, depositing or throwing of any garbage, except that which has passed through a disposal unit of a type approved by the United States public health service, or oil or rubbish from a vessel or watercraft of 25 or more feet in length into a river or inland lake within this state, or within 3 miles of the shoreline of any part of the

the great lakes or connecting waters thereof within this state, is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$1,000.00, or by both.

HISTORY Add 1964, p. 126, Act 132, Eff. Jan. 1, 1966

750.111 Entering without breaking. [M.S.A. 28.306]

Sec. 111. Any person who, without breaking, shall enter any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, with intent to commit a felony or any larceny therein, shall be guilty of a felony punishable by imprisonment in the state prison not more than 5 years, or fined not more than \$2,500,00.

HISTORY: Am. 1929, p. 30, Act 13, Eff. Aug. 28;—Am. 1964, p. 126, Act 133, Eff. Aug. 28. NOTE: This section supercedes Sec. 1 of Act 345 of 1925.

CHAPTER XLIII FRAUDS AND CHEATS

750.282 Public utility service, injury, interference, use. [M.S.A. 28.493]

Sec. 282. Fraudulent connecting, using, etc., of water, steam, electric or gas service and supply-Any person who wilfully or fraudulently injures, or suffers to be injured, any motor, wire, line, pipe or appliance belonging to any water, steam, electric or gas company, or prevents any water, steam, electric or gas meter belonging to such company from duly registering the quantity of water, steam, electric current or gas measured through the same, or in any way hinders or interferes with its proper action or just registration, or attaches any line, wire or pipe to any line, wire, pipe or main belonging to such water, steam, electric or gas company, or otherwise uses or burns or causes to be burned or used any water, steam, electric current or gas supplied by such company, without the written consent of such company, or its duly authorized agent or officer, unless the same passes through a meter or is measured by a motor set by said company, or fraudulently uses its water, steam, electric current or gas, or wastes the same, shall, for every such offense, if such water, steam, electric current, gas or damage so caused shall be of the value of 50 dollars or less, be guilty of a misdemeanor. If such water, steam, electric current, gas or damage so caused, shall exceed in value the sum of 50 dollars, such person shall be guilty of a felony: Provided, That such criminal prosecution shall not in any way impair the right of such company to a full compensation in damages by civil suit.

The provisions of this section shall extend and apply to all offenses against all water, steam, electric or gas companies and boards or municipalities owning or operating plants for producing, manufacturing, furnishing, transmitting or conducting water, steam, electricity or gas, either natural or artificial.

In all prosecutions under this section it shall be prima facie evidence on the part of the people of the violation of the provisions of this section to show that the defendant other than a lessor had control of or occupied the premises where the offense was committed, or received the benefit of such water, steam, electric current or gas so used or consumed.

HISTORY: This section supersedes Sec. 1 of Act 277 of 1911, being CL 1915, 15361;—CL 1929, 17042; and Sec. 3 of Act 277 of 1911, being CL 1915, 15363;—CL 1929, 17044; and re-enacts except changes "act" to "section" Sec. 2 of Act 277 of 1911, being CL 1915, 15362;—CL 1929, 17043.

CHAPTER LVI

MALICIOUS AND WILFUL MISCHIEF AND DESTRUCTION

750.378 Same; dam, reservoir, canal trench, etc. [M.S.A. 28.610]

Sec. 378. Maliciously destroying, injuring, etc., dams, canals, etc.—Any person who shall wilfully and maliciously break down, injure, remove, or destroy any dam, reservoir, canal or trench, or any gate, flume, flash-boards, or other appurtenances thereof, or any levee or structure for the purpose of conveying water to any such dam or reservoir, or

any of the wheels, mill-gear, or machinery of any mill, or shall wilfully or wantonly, without color of right, draw off the water contained in any millpond, reservoir, canal, or trench, shall be guilty of a felony.

HISTORY: This section supersedes Sec. 46 of Ch. 154 of the R. S. 1846, being C L 1857, 5790;—C L 1871, 7597;—Am. 1875, p. 239, Act 211, Eff. Aug. 3;—How. 9168;—C L 1897, 11582;—C L 1915, 15327;—C L 1929, 16923.

750.379 Same; bridges, etc. [M.S.A. 28.611]

Sec. 379. Maliciously injuring or destroying bridges, etc.—Any person who shall wilfully and maliciously break down, injure, remove or destroy any public or toll bridge, or any railroad, or any lock in any dam, or any lock, culvert or embankment of any canal, or who shall wilfully and maliciously make any aperture or breach in any such embankment, with intent to destroy or injure the same, shall be guilty of a felony.

HISTORY: This section supersedes Sec. 47 of Ch. 154 of the R. S. 1846, being C L 1857, 5791;—C L 1871, 7598.—How. 9169;—C L 1897, 11583;—C L 1915, 15328;—C L 1929, 16924.

750.383a Same; wilfully cutting, breaking, obstructing, destroying or manipulating without authority utility equipment or appliances. [M.S.A. 28.615(1)]

Sec. 383a. Any person or persons who shall wilfully cut, break, obstruct, injure, destroy, tamper with or manipulate any machinery, tools, equipment, telephone line or post, telegraph line or post, electric line, post, tower or supporting structures, electric wire, insulator, switch or signal, natural gas pipe line, water pipe line, steam heat pipe line or the valves or other appliances or equipment appertaining to or used in connection with such lines, or any other appliance whether herein particularly mentioned or not, being the property of any utility, with the intention and without authority to interrupt or disrupt communications or electric, gas, water or steam heat service, or to curtail or impair the utilization thereof, or who shall conspire, aid, abet in or cause to be done any such unlawful acts, shall be guilty of a felony.

"Utility" includes any pipe line, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, communication or other system, by whomsoever owned or operated for the public use.

HISTORY: Add. 1941, p. 286, Act 190, Imd. Eff. June 16; -Am. 1947, p. 66, Act 61, Imd. Eff. April 28

750.384 Same; logs, timber, etc. [M.S.A. 28.616]

Sec. 384. Maliciously injuring logs, timber, etc.—Any person who shall wilfully and maliciously drive, or cause to be driven or imbedded, any nail, spike, or piece of iron, steel or other metallic substance into any timber, log, or bolt which may now be or may hereafter be put on the banks of or in any of the waters, or any mill yards of this state for the purposes of being made into lumber or marketed, shall be guilty of a misdemeanor.

HISTORY: This section supersedes Sec. 1 of Act 162 of 1869, being CL 1871, 7618;—How. 9183;—CL 1897, 11596;—CL 1915, 15351;—CL 1929, 17009.

750.392 Vessels, wilfully destroying. [M.S.A. 28.624]

Sec 392. Wilfully destroying vessels, etc.—Any person who shall wilfully cast away, burn, sink or otherwise destroy any ship, boat or vessel within the body of any county, with intent to injure or defraud any owner of such ship, boat or vessel, or the owner of any property on board the same, or any insurer of such ship, boat or vessel or property or any part thereof, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

HISTORY: This section supersedes Sec. 41 of Ch. 154 of the R. S. 1846, being C L 1857, 5785;—C L 1871, 7592;—How. 9163;—C L 1897, 11577;—C L 1915, 15322;—C L 1929, 16918.

750.393 Buoy or beacon, wilfully removing or destroying. [M.S.A. 28.625]

Sec. 393. Wilfully removing or destroying buoy or beacon—Any person who shall wilfully remove or destroy any buoy or beacon placed in any of the waters of the state, by the authority of the United States, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than 500 dollars.

HISTORY: New section.

CHAPTER LXIV POISONS

750.436 Poisoning food, drink, medicines, wells, etc. [M.S.A. 28.691]

Sec. 436. Poisoning food, wells, etc.—Any person who shall mingle any poison with any food, drink or medicines, with intent to kill or injure any other person, or shall wilfully poison any spring, well or reservoir of water, with such intent, shall be guilty of a felony punishable by imprisonment in the state prison for life, or any term of years.

HISTORY: This section supersedes Sec. 27 of Ch. 153 of the R. S. 1846, being C L 1857, 5737;—C L 1871, 7536;—How 9101;—C L 1897, 11496;—C L 1915, 15218;—C L 1929, 16734.

CHAPTER LXIX PUBLIC HEALTH

750.475 Drinking cups at public drinking fountains. [M.S.A. 28.743]

Sec 475. Drinking cups at public drinking fountains—It shall be the duty of every person within this state, maintaining any public drinking fountain, water cooler or tank, or any other device dispensing water for public drinking purposes, other than a sanitary fountain, to provide for supplying individual drinking utensils by sale or free distribution; any if by sale, at a cost not exceeding 1 cent for each individual utensil. In case there shall be no facilities for furnishing as aforesaid individual drinking utensils at any such fountain, water cooler, tank or other device, the person so maintaining the same shall post in close proximity thereto a placard designating the place at which or the person from whom such individual drinking utensils may be procured.

Any person violating any of the provisions of this section shall be guilty of a mis-

HISTORY: This section supersedes and merges Sec. 1 of Act 93 of 1913, being C.L. 1915, 5189;—C.L. 1929, 6686; and Sec. 2 of Act 93 of 1913, being C.L. 1915, 5190;—C.L. 1929, 6687.

SUPPLEMENTAL CHAPTERS

Act 221, 1899, p. 342; Eff. Sept. 23.

AN ACT to compel parties engaged in securing ice to erect suitable danger signals and barricades, designating what officials it shall be the duty of to see that the provisions of this act are complied with, and to repeal Act No. 100 of the Public Acts of 1877, entitled "An act to compel parties engaged in securing ice to erect danger signals," being sections 9119 and 9120 of Howell's annotated statutes of the state of Michigan and sections 11525 and 11526 of the Compiled Laws of 1897.

The People of the State of Michigan enact:

752.351 Erection of signal and barricade where ice is cut; duty. [M.S.A. 28.111]

Sec. 1. That it shall be the duty of any person or persons who are, or who hereafter may be, engaged in the procuring of ice from any of the streams, ponds or lakes of this state to erect, or cause to be erected, place, or cause to be placed, at or near all places where they shall be cutting ice, suitable danger signals and barricades. Such barricades shall consist of cross bars upon which a pole, rope, chain or rail shall be laid at a height not less than 3 feet above the ice and shall be placed not less than 10 feet from the edge of the opening.

HISTORY: CL 1915, 15262;—CL 1929, 16801, FORMER ACT: Act 100 of 1877, being CL 1897, 11525 and 11526.

752.352 Enforcement; duty of harbormaster, supervisor, or assessor. [M.S.A. 28.112]

Sec. 2. It shall be the duty of the harbor master at all places where there is such an official having control of a stream or lake within this state, and where there is no such an official having control as aforesaid, it shall be the duty of the supervisor or other assessing officer in whose assessment district such stream or lake is situated to see that the provisions of section 1 of this act are complied with.

HISTORY: CL 1915, 15263;-CL 1929, 16802.

752.353 Penalty. [M.S.A. 28.113]

Sec. 3. Any person or persons who shall neglect or refuse to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than 3 months, or by fine not exceeding 100 dollars, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1915, 15264;—CL 1929, 16803.

Act 106, 1963, p. 137; Eff. Sept. 6.

AN ACT to define, control and prohibit the littering of public and private property and waters; to prescribe penalties for violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

752.901 Litter; prohibition; construction of terms; removal of wrecked vehicle from highway. [M.S.A. 28.603(1)]

Sec. 1. It is unlawful for any person knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of, litter on any public or private property or waters other than property designated and set aside for such purposes. The phrase "public or private property or waters" includes, but is not limited to, the right of way of any road or highway, any body of water or watercourse, or the shores or beaches thereof and including the ice above such waters; any park, playground, building, refuge or conservation or recreation area; and any residential or farm properties or timberlands. It is unlawful for a person who removes a vehicle, wrecked or damaged in an accident on a highway, road or street, to fail to remove all glass and other injurious substances dropped on the highway, road or street as a result of the accident.

HISTORY: Am. 1966, p. 199, Act 177, Eff. 90 days after adjournment.

752.902 Same; definition. [M.S.A. 28.603(2)]

Sec. 2. The term "litter" as used herein means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

752.903 Penalty; sentence. [M.S.A. 28.603(3)]

Sec. 3. Any person violating any provision of this act shall be guilty of a misdemeanor. The court, in lieu of any other sentence imposed, may direct a substitution of litter-gathering labor, including, but not limited to, the litter connected with the particular violation, under the supervision of the court.

752.904 Publication of act; receptacles for litter. [M.S.A. 28.603(4)]

Sec. 4. All public authorities having supervision of public property of this state or any political subdivision thereof may post notice signs and otherwise to publicize the requirements of this act. All public authorities having supervision of public property in this state may establish and maintain receptacles for the deposit of litter on the property and publicize the location thereof.

752.905 Repeal. [M.S.A. 28.603(5)]

Sec. 5. Section 681 of Act No. 300 of the Public Acts of 1949, being section 257.681 of the Compiled Laws of 1948; section 1 of Act No. 350 of the Public Acts of 1865, as amended, being section 307.21 of the Compiled Laws of 1948; and section 9 of Chapter 10 of Act No. 283 of the Public Acts of 1909, as amended, being section 230.9 of the Compiled Laws of 1948, are repealed.

752.906 Municipal ordinances. [M.S.A. 28.603(6)]

Sec. 6. This act shall not affect or in any way limit the powers of cities, villages and townships to enact and enforce ordinances for the control and elimination of litter.

MISCELLANEOUS STATUTES

RAILROAD COMPANIES

Act 198, 1873, p. 496; Imd. Eff. May 1.

AN ACT to revise the laws providing for the incorporation of the railroad bridge and tunnel companies and to regulate the running and management and to fix the duties and liabilities of all railroad, bridge, tunnel and other corporation owning or operating any railroad, bridge, or tunnel within this state, and to authorize the use of certain provisions of this act having to do with the exercise of the power of eminent domain by the state highway commissioner in certain cases, and to provide certain changes in such procedure when used by the state highway commissioner, and to confer certain rights and powers upon everyone coming under the provisions of this act.

The People of the State of Michigan enact:

ARTICLE II.—CORPORATE POWERS AND DUTIES OF DIRECTORS

464.31 Bridge or tunnel company; rights. [M.S.A. 22.235]

Sec. 31. It shall be competent for all railroad bridge companies and railroad tunnel companies organized under this act, respectively, to construct bridges over or tunnels under the waters of this state, to extend the railroad track or tracks which they may lay upon any bridge or through any tunnel which they may construct, so as to connect with any railroad whose business may pass through it, and for that purpose may acquire the right of way over or under or across any private property, in the same manner as herein provided for acquiring the right of way for railroads, and may, with the authority of the common council of any city, acquire the right to cross and use such portion of any street as may be found necessary; and to raise money, shall have the same authority as is herein conferred upon railroad companies to issue and sell bonds, and secure their payment by deeds of trust; and for all such purposes the said railroad bridge companies and railroad tunnel companies shall have the same rights as railroad companies organized under this act.

HISTORY: How. 3345;—C L 1897, 6256;—Am. 1899, p. 452, Act 266, Eff. Sept. 23;—C L 1915, 8265;—C L 1929, 11144.

Act 129, 1883, p. 131; Imd. Eff. May 31.

AN ACT for the organization of telephone and messenger service companies.

The People of the State of Michigan enact:

484.4 Construction of line, restrictions; condemnation; purchase of stock; holding of realty. [M.S.A. 22.1414]

Sec. 4. Every such corporation shall have power to construct and maintain lines of wire or other material, for use in the transmission of telephonic messages along, over, across, or under any public places, streets and highways, and across or under any of the waters in this state, with all necessary erections and fixtures therefor: Provided, That the same shall not injuriously interfere with other public uses of the said places, streets and highways, or injure any trees located along the line of such streets or highways nor shall the same interfere with the navigation of said waters, or the running of railway trains; to construct, provide and furnish instruments, devices, and facilities for use in the transmission of such messages, and to construct, maintain and operate telephone exchanges and stations, and generally to conduct and carry on the business of providing and supervising communication by telephone, and also the business of furnishing messenger service in cities and towns: Provided further, That whenever any corporation organized under the provisions of this act for the purpose of constructing any public telephone line in the upper peninsula of this state finds it impracticable to construct its said lines upon any of the public places, streets and highways and across or under any waters in this state, on account of which it may desire to acquire any right of way for its said lines over, through, under and across any lands needed therefor, and is unable to agree with the owner of such lands for the purchase of said right of way, such corporation shall have the right to acquire the title to said right of way, outside of the corporate limits of cities and villages, upon making just compensation to the owner of such lands, in the same manner and by the same proceedings as provided for in chapter 164 of the Compiled Laws of 1897 of this state for the condemnation of lands for right of way by railway companies: Provided further, that whenever the owner of any lands which are not traversed by any railway objects to having any telephone company run its line of right of way across his lands at any point, then the said telephone company shall confine its line of right of way to established subdivision lines. Whenever the owner of any lands which are traversed by any railway shall object to having any telephone company run its line of right of way across his lands at any point then the said telephone company shall confine its line of right of way to established subdivision lines or immediately adjoining and along the right of way of said railway. And it shall be lawful for any such corporation to purchase and hold a portion of the stock of any corporation owning or controlling by patent, or otherwise, the use of any instrument or device necessary or convenient for use, in the transmission or reception of telephonic messages, and to purchase and hold all real property necessary to carry out the purposes of its organization.

HISTORY How 3718d:—C.L. 1807, 6691;—Am. 1899, p. 18, Act 16, Imd. Eff. March 9;—C.L. 1915, 8791;—C.L. 1929, 11693.

TELEPHONE, TELEGRAPH AND RADIO COMPANIES

Act 59, 1851, p. 61; Imd. Eff. March 20.

AN ACT to authorize the formation of telegraph companies

484.155 Telegraph lines; construction, restrictions. [M.S.A. 22.1365]

Sec. 5. Such association is authorized to enter upon, and construct, and maintain lines of telegraph through, along, and upon any of the public roads and highways, or across or under any of the waters within the limits of this state, by the erection of the necessary fixtures, including posts, piers, or abutments for sustaining the cords or wires of such lines: Provided. That the same shall not be so constructed as to incommode the public use of said roads or highways, or injuriously interrupt the navigation of said waters; nor shall this act be so construed as to authorize the construction of any bridge across any of the waters of this state: And provided further, That this act shall not be construed to authorize any such association to injure, deface, tear, cut down, or destroy any tree or shrub planted along the margin of any highway in this state, or purposely left there for shade or ornament. Said association, instead of running or placing their wires on posts, may, if they choose, run or place the same under ground, with a suitable or proper covering for the protection of the same; and any part of this act, or any law made or to be made, providing for the appraisement of damages to any person injured by the construction or maintenance of such line or lines, shall be construed to include damages occasioned by the construction of said lines under ground, as provided by this act.

HISTORY: C.L. 1857, 2053;—Am. 1863, p. 421, Act 240. Eff. June 22;—C.L. 1871, 2629;—Am. 1873, p. 27, Act 28, Eff. July 31;—Am. 1875, p. 157, Act 129, Imd. Eff. Apr. 27;—How. 3697;—C.L. 1897, 6671;—C.L. 1915, 8771;—C.L. 1929, 11667.

CANAL, HARBOR AND RIVER IMPROVEMENT COMPANIES

Act 233, 1875, p. 287; Imd. Eff. May 4.

AN ACT to re-enact and amend chapter 84 of the Compiled Laws of 1871, relative to the formation of corporations to construct canals or harbors and improve the same, by adding 2 new sections thereto, and by restricting its operations to the upper peninsula.

The People of the State of Michigan enact:

485.1 Canal or harbor company; incorporators, procedure; articles, contents. [M.S.A. 22.1481]

Sec. 1. Any number of persons, not less than 3, may be formed into a corporation for the purpose of constructing a canal or harbor, or improving the navigation of any river or stream in the upper peninsula and in Branch and Macomb counties, by dredging out the channel, making a new entrance, and constructing canals to straighten the same, or by any of said methods, by complying with the following requirements. Notice shall be given in at least

1 newspaper printed in each county where the said canal or improvement is proposed to be constructed, at least 2 weeks, of the time and place or places where books for subscribing to the stock of such company will be opened, and of the estimated cost of said canal or improvement, which notice may be signed by any 2 persons proposing to enter upon the construction of said canal or improvement. If there be no newspaper printed in such county, then it shall be printed in some newspaper in an adjoining county, if any, or if none then it shall be printed in some newspaper in the city of Detroit, and in the latter case notices shall be posted in 3 🖟 💏 e most public places in the township, city, or village, where said meeting is to be held during a ame time; and when stock, to the amount of 1,000 dollars per mile of such canal or improvement so intended to be built shall be subscribed, and 5 per cent paid thereon, then the said subscribers upon due and proper notice signed by any 2 of said subscribers, may elect directors for the said corporation and thereupon they shall severally subscribe articles of association in which shall be set forth the name of said company, the number of years the same is to be continued, the amount of capital stock, the number of shares of said stock, the number of directors, the names of those elected to hold office for the first year, the nature and extent of said canal or improvement and the length thereof as near as may be.

HISTORY Am. 1879, p. 56. Act 59, Img. Eff. April 18;—How 3820.—Am. 1885, p. 276. Act 197, Imd. Ett. June 16.—C L 1897, 6696;—C L 1915, 8797;—C L 1929, 11732.

485.2 Articles; signing, filing; powers of company. [M.S.A. 22.1482]

Sec. 2. Each subscriber to such articles of association shall subscribe thereto his name and place of residence, and the number of shares of stock taken by him. The said articles shall be filed in the office of the secretary of state, and thereupon the persons who have so subscribed, and all persons who shall, from time to time, become stockholders in said company, by assignment or otherwise, shall be a body corporate by the name specified in such articles, and as such shall be capable of suing and being sued in all courts, purchasing and acquiring all property necessary to be used in the construction and keeping in repair of said canal, or harbor, or improvement, or any works necessary for the same, and may, by such by-laws as shall be adopted by said company, prescribe the manner of calling and conducting the meetings of the stockholders, and shall possess the power and privileges, and be subject to the provisions contained in chapter 55 of the Revised Statutes of 1846, so far as the same shall be applicable, and not inconsistent with the provisions of this act, and shall also have power to issue bonds to the amount of 1/2 the capital paid in, bearing such rates of interest as shall be directed by the board of directors: Provided, That no such bond shall be issued for a less sum than 100 dollars, nor sold at less than the face thereof, without a vote of the stockholders authorizing the same.

HISTORY: How. 3821;—C L 1897, 6697;—C L 1915, 8798;—C L 1929, 11733

485.3 Same; filing, prerequisites; vote of stockholder. [M.S.A. 22.1483]

Sec. 3. Such articles of agreement shall not be filed in the office of the secretary of state until 5 per cent of the capital subscribed shall have been paid to the directors named in the articles, nor until there is endorsed on said articles, or annexed thereto, an affidavit of 2 of the directors that the amount of capital stock required by the first section has been subscribed, and 5 per cent paid: and no stockholder shall be entitled to vote on any question which shall come before a meeting of the stockholders unless all assessments due on stock standing in his name shall have been paid.

HISTORY: How. 3822;—CL 1897, 6698;—CL 1915, 8799;—CL 1929, 11734.

485.4 Same; certified copy as evidence. [M.S.A. 22.1484]

Sec. 4. A copy of said articles, filed in pursuance of this act, certified by the secretary of state to be a true copy, and of the whole thereof, shall be in all courts and places presumptive evidence of the incorporation of such company and of the facts therein stated. HISTORY: How. 3823;—C L 1897, 6699;—C L 1915, 8800;—C L 1929, 11735.

485.5 Directors; number, election, term, vacancy. [M.S.A. 22.1485]

Sec. 5. The business and property of such company shall be managed by a board of not less than 3, nor more than 7 directors, who after the first year shall be elected annually, at such time and place as the by-laws direct, and public notice shall be given of such elec-

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tion not less than 20 days previous thereto, in such manner as shall be prescribed by the by-laws. The election shall be made by such stockholders as shall attend for that purpose in person or by proxy. Each share shall be entitled to 1 vote, and the person receiving the greatest number of votes shall be declared elected. All vacancies in the board shall be filled by the remaining directors until another election. In case the election of directors is not held on the day fixed by the by-laws, it may be held on any day thereafter fixed by the board, on giving the same notice of the time and place as in case of an annual election.

HISTORY: How 3824. C. L. 1897, 6700.—C. L. 1915, 8801;—C. L. 1929, 11736.

485.6 Same; quorum; selection of officers. [M.S.A. 22.1486]

Sec. 6. A majority of the directors shall be a board for the transaction of business. At the first meeting after their election, they may elect 1 of their number president, and appoint such other officers as the articles of association or by-laws require.

HISTORY: How. 8825.—C.L. 1897, 6701. C.L. 1915, 8802.—C.L. 1929, 11737.

485.7 President and directors, powers; annual report, contents. [M.S.A. 22.1487]

Sec. 7. The president and directors shall have power to make and prescribe such rules and regulations respecting the transfer of the stock, either before its full payment or thereafter, and for the general management of the affairs of said association, as they may deem proper, not inconsistent with the laws of this state, and shall have power to appoint and employ officers, clerks, agents, and servants, for conducting and carrying on the business of said corporation, and fix the salaries or compensation to be paid to them. It shall be the duty of the said president and directors to make, verified by the oath of some one of them, an annual report to the secretary of state on the first day of January in each year, showing: First, the capital stock and the amount actually paid in; second, the amount expended, and for what purpose; third, the amount received from tolls, and from all other sources, distinguishing from what sources; fourth, the number and amount of dividends, and how paid; fifth, the number of men employed and their occupation.

HISTORY: How. 3826.— C.L. 1897, 6702.— C.L. 1915, 8803;— C.L. 1929, 11738.

485.8 Construction of route; restrictions. [M.S.A. 22.1488]

Sec. 8. It shall be lawful for such company, their officers, engineers, and agents, to enter upon any lands for the purpose of exploring, surveying, and locating the route of any such canal, harbor, or the improvement of any such river or stream, doing thereto no unnecessary damage, and paying any damage which may accrue; but said company shall not locate any such canal through any orchard over 1 year old, or garden, without the consent of the owner, or through any building or fixtures, or any yard or enclosure necessary for the use and enjoyment thereof, without the like consent, and when the said route or improvement shall be established by the said company, it shall be lawful for them, their officers and servants to enter upon, take possession of, and use such lands, to the width of 200 feet, as said company shall have purchased or obtained from the owners or occupants the right to use, and also to take and use any other lands which may be necessary for the construction of said canal, or the improvement of the navigation of such river, or the erection of any locks, gates, toll-houses, or other fixtures, or the construction of any dam that may be necessary to raise the water for the purposes of washing out any channel or harbor: Provided, If such dam shall obstruct any channel navigable for vessels, it shall be made during the winter months and removed before the opening of navigation, the necessity for such taking, and the damages to be paid therefor being first ascertained, and such damages paid as hereinafter How, 3827 - C L 1897, 6703; C L 1915, 8804; C L 1929, 11739,

485.9 Real estate; power to hold. [M.S.A. 22.1489]

Sec. 9. Said corporation shall not, in their corporate capacity, hold, purchase, or deal in any lands other than lands donated to said corporations to aid in constructing said improvements, or the lands in which their canals shall run, to the width of 300 feet on each side of said canals, or which are donated to or purchased by said corporation for wharves or docking purposes, or which may actually be necessary for the construction and maintenance of the canals or improvements, or the fixtures connected therewith.

HISTORY How 3828 C L 1897, 6704; C L 1915, 8805; C L 1929, 11740

485.10 Condemnation, procedure; use of property. [M.S.A. 22.1490]

Sec. 10. Whenever said company shall desire to enter upon, use, or occupy any lands or condemn any franchises or right to the use of running water, when no agreement can be made with the owners thereof, the like proceedings shall be had and taken as is provided in "An act to provide for the incorporation of railroad companies," and the acts amendatory thereto; and after the payment or tender of such damages as shall be then ascertained, may enter upon and take the lands so appraised, for the purposes of constructing said canal, harbors, or making the improvement in such river, its fixtures and appurtenances.

HISTORY How 829 CL 1897, 6705; CL 1915, 8806; CL 1929, 11741. XOTE: The act above referred to, is Act 82 of 1855, which was repealed and superseded by Act 198 of 1873. See Compilers § 464.13 et seq.

485.11 Tolls and charges; establishment, lien, evidence. [M.S.A. 22.1491]

Sec. 11. Any such company shall be authorized to charge, demand, and receive such rates of toll for the use of said canal or harbor, or for the use of any river or stream of this state, improved by said company, or for any dock, wharf, or other improvements, as may be established by 3 commissioners, who shall be appointed by the board of supervisors of the county where the tolls are collected, or in which the greater part of such improvements shall be constructed. Said commissioners, after making a personal examination of such canal or improvement, shall fix and establish the rate of tolls and charges for each boat. vessel, raft, or craft of any description using such canal, or passing through said improved river, or any of the works of said company, and upon the goods, merchandise, or other cargo, on said boat or vessel, which said tolls or charges shall be a lien upon the boat or vessel using any of the improvements of said company, or having such goods or merchandise on board, and may be collected under the provisions of an act entitled "An act to repeal chapter 122 of the Revised Statutes of 1846, and the amendments thereto, and provide for the collection of demands against water-craft," approved February 5, in the year of our Lord 1864, and shall be collected in the distribution of funds, as provided by section 33 of said act, under the fourth specification of said section; and it shall be the duty of the master or clerk of any such boat or vessel, on demand of the collector, or any other person authorized by said company to receive or collect such tolls or charges, to give such collector, or other person so authorized, a true and correct statement of all goods, merchandise, or other cargo, on said boat or vessel, and subject to pay any toll, or charges. which statement shall be verified by the oath of the master, or clerk of such vessel or boat. Said board of commissioners shall deliver a certified copy of such rates of tolls or charges to said company, a printed copy of which shall always be posted up at such place where toll is demanded, and the board shall file another copy with the secretary of state. which shall be duly recorded in his office. A certified copy of such record may be read in evidence in any court of this state, and shall be sufficient proof of the rates of tolls and charges due on any boat or vessel, or any goods, merchandise, or other cargo: Provided. however. That no charge whatever shall be made for the use of any river where such improvement has been made, for any boat, vessel, raft, or craft of any description, which might or could have used said river before said improvements had been made: Provided further, That the said board shall, in determining the rates of toll or charges, declare what boats, or vessels, or rafts are entitled to use said river free of charge.

HISTORY: How, 3830; C.L. 1897, 6706; C.L. 1915, 8807; C.L. 1929, 11742; NOTE: The Act of 1864, above referred to, is the water craft act, being Compilers' \$ \$ 570.401 to 570.449.

485.12 Injury to property; violation of regulation; liability for damages lien. [M.S.A. 22.1492]

Sec. 12. If any person shall willfully obstruct, or in anywise injure any such canal, harbor, or improvements, or any dock, wharf, or other fixture connected therewith, or shall violate any rule, or regulation established by said company, such person, or [such] boat or vessel, or other craft, as the said company may elect, shall be liable for all damages done or committed; and said damages, if against the person, may be recovered in an action

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of trespass, and if proved to have been done willfully, treble damages may be recovered. Any such claim for damages, if the company shall so elect, shall be a lien on any such boat or vessel, or other craft, and such lien may be enforced under the existing provisions of the law therefor.

HISTORY: How. 5831, C.L. 1897, 6707; C.L. 1915, 8808; C.L. 1929, 11743.

485.13 Repair of bridges. | M.S.A. 22.1493 |

Sec. 13. Whenever any canal shall cross any highway, the company shall make and keep in good repair such bridges as the board of supervisors of the county in which such canal is located shall direct.

HISTORY: How 3832 - C L 1897, 6708 - C L 1915, 8809 - C L 1929, 11744.

485.14 Stockholder's liability, recovery prerequisites; subrogation; contribution. [M.S.A. 22.1494]

Sec. 14. The stockholders of said companies incorporated under this act, shall be jointly and severally liable for all labor performed for such company; but no suit shall be brought against any individual stockholder for any debt of said company until judgment on the demand shall have been obtained against the company and execution thereon returned unsatisfied in whole or in part; and any stockholder who has paid any debt of such company, either voluntarily or otherwise, shall have the right to sue and recover of such company the full amount thereof, with interest, costs, and expenses; and in case of failure to recover the amount from said company, may sue the said stockholders, or any 1 of them, for their due proportion thereof, which such stockholders ought to pay, and if such action for contribution shall be brought against more than 1, the judgment shall specify the sum due and to be recovered from each of the defendants named.

HISTORY: How, 3833. C.L. 1897, 6709; C.L. 1915, 8810; C.L. 1929, 11745.

485.15 Avoidance of payment of toll; penalty. [M.S.A. 22.1495]

Sec. 15. Any boat, vessel, raft, or craft which shall willfully pass through said canal or said improvement without paying the toll required, shall be liable to pay to said company the sum of 100 dollars, to be collected by proceeding against said boat or against the owners thereof, by attachment or otherwise.

HISTORY: How, 3834; -C L 1897, 6710; -C L 1915, 8811; -C L 1929, 11746.

485.16 Amendment or repeal. [M.S.A. 22.1496]

Sec. 16. The legislature shall, at all times hereafter, have the free right to alter, amend or repeal this act.

HISTORY: How, 3835 - C.L. 1897, 6711; - C.L. 1915, 8812; - C.L. 1929, 11747.

485.17 Taxation. [M.S.A. 22.1497]

Sec. 17. All corporations formed or existing under this act shall be liable to be assessed for all real and personal estate held by them in this state, as provided by law for the assessment of other real and personal estate, and shall pay thereon a tax for township, village city, county, state and other purposes, the same as other real and personal estate; and such tax shall be assessed, collected and paid in the same manner as other taxes on real and personal estate are required to be assessed, collected, and paid Provided. That the capital stock of such corporations shall not be taxed as capital stock, And provided further, That if any of the property of any such corporation is now exempt from taxation, nothing herein contained shall impair or effect [affect] such exemption during the continuance thereof.

HISTORY: Am. 1879, p. 38, Act 66, Imd. Eff. May 7;—How. 3836;—C L 1897, 6712;—C L 1915, 8813.

485.18 Existing corporation; organization under act, preference in subscription. [M.S.A. 22.1498]

Sec. 18. Any person or private association or corporation in the upper peninsula and Branch and Macomb counties, who have previous to the passage of this re-enacted and amended act, constructed any canal or harbor, or have improved the navigation of any river or stream in the state of Michigan within the meaning of section 1 of this act, when

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the amount of money actually expended by them in the construction of any such canal or improvement exceeds the sum of 10,000 dollars, may organize under this act, and like notice shall be given by section 1 of this act: Provided, That such persons, associations, or corporations shall have the preference in the subscriptions to the stock of such company to the amount so expended by them.

HISTORY: Am. 1879, p. 36. Act 39, Imd. Eff. April 18. How, 3837, Am. 1885, p. 277, Act 197, Imd. Lin. Line 16.—C.L. 1897, 6713.—C.L. 1915, 8814.—C.L. 1929, 11749.

485.19 Failure to furnish cargo statement; penalty. [M.S.A. 22.1499]

Sec. 19. In case the master or clerk of any boat or vessel shall neglect or refuse to furnish the statement as required by section 11 of this re-enacted and amended act, he shall be liable to a fine not exceeding 100 dollars, to be sued for and be recovered by said company.

HISTORY How 3838; CL 1897, 6714; CL 1915, 8815; CL 1929, 11750.

485.20 Bonds; issuance, restrictions. [M.S.A. 22.1500]

Sec. 20. Any company organized under this act may borrow money, and issue bonds for the payment of the same, for the purpose of providing means for repairing, altering, or enlarging said improvements: Provided, however, That the amount so raised shall not at any one time exceed in amount 50 per cent of the amount of the capital stock of said company.

HISTORY: How. 3839; -C L 1897, 6715; -C L 1915, 8816; -C L 1929, 11751.

485.21 Canal or improvement, purchase by county, procedure; operation; sale to United States. [M.S.A. 22.1501]

Sec. 21. Any county through which any such improved river or stream shall pass, or in which the greater part of any such improvements have been constructed, or which any canal shall have been constructed, within the provisions of this act, shall have the right to purchase any such canal or improvement by paying to any such company the amount of their capital stock and the amount of all subsequent expenditure in repairing, altering or enlarging any such canal or improvements, and interest, at the rate of 10 per cent per annum, on said amounts, deducting from the amount of interest the net proceeds of any such company; and the board of supervisors of any such county to take the management of any such canal or improvement so purchased; to receive and collect tolls the same as provided for in this act; to appoint proper officers for the management of the same, with proper salaries for their services, and shall be entitled to the privileges and remedies provided in this act. Any corporation organized under this act may convey its property and franchises to the United States, and such conveyance shall extinguish the power of the county to purchase the same.

HISTORY: Am. 1879. p. 195. Act 216, Eff. Aug. 30.—How. 3840.—C.L. 1897, 6716.—C.L. 1915, 8817,—C.L. 1929, 11752.

485.22 Same; submission to electors; bonds, issuance. [M.S.A. 22.1502]

Sec. 22. The board of supervisors of any such county may at any time, by a majority vote, submit the question of purchasing any such canal, harbor or improvement, to the electors of said county; and if a majority of the electors shall decide to purchase any such canal, harbor or improvement, then the board of supervisors shall be authorized to purchase the same, and may, for that purpose, issue the bonds of said county to an amount sufficient to make such purchase: Provided, That if the property and franchises of any corporation, organized under the provisions of this act, shall be conveyed to the United States, as provided in section 21 of this act, then in such case the provisions of this section shall not be operative.

HISTORY: Am. 1879, p. 196, Act 216, Eff. Aug. 30;—How. 3841.—C.L. 1897, 6717;—C.L. 1915, 8818;—C.L. 1929, 11753.

485.23 Re-instated corporations. [M.S.A. 22.1503]

Sec. 23. The corporations heretofore formed under said chapter 84 in the upper peninsula and in Branch and Macomb counties, are herein re-instated in all their rights, privileges, franchise, and property.

HISTORY: Am. 1879, p. 37, Act 39, Imd. Eff. April 18;—How. 3842;—Am. 1885, p. 277, Act 197, Imd. Eff. June 16.—C L 1897, 6718;—C L 1915, 8819;—C L 1929, 11754, COMPILERS' NOTE: Title of act does not include Branch and Macomb counties.

485.24 Same; formation of companies to purchase and operate. | M.S.A. 22.1504|

Sec. 24. Corporations may be formed under this act in the upper peninsula and Branch and Macomb counties for the purpose of operating and further improving any canal or improvement in the upper peninsula and Branch and Macomb counties, of any corporation formed under the act hereby re-instated, and may purchase the canal or other improvements, lands, or other property of such corporations.

HISTORY: Am. 1879, p. 37, Act 39, Imd. Eff. April 18.—How 3843; Am. 1885, p. 277, Act 197, Imd. Eff. June 16.—C.L. 1897, 6719.—C.L. 1915, 8829.—C.L. 1929, 11755. COMPILLES NOTE. Fitte of act does not include Branch and Macomb counties.

485.25 Purchasing corporation, powers and duties; log interest; public rights. | M.S.A. 22.1505 |

Sec. 25. When any such corporation shall have purchased any canal or other improvements, lands, or other property of any such other corporation under the provisions of section 24 of this act, the rate of tolls shall not thereafter be increased but the corporation purchasing shall be entitled to collect the tolls established and existing at the time of such purchase, and no other additional charges shall be imposed. And when any corporation formed under the provisions of this act shall have made improvements on or at the mouth of any navigable stream, said corporation is hereby required to furnish reasonable facilities in said harbor, in, at, or near the mouth of said stream, for the making up of rafts at such place and in such manner that it will be practicable to float such rafts to the lake. They shall also be required to furnish reasonable facilities for operating, tying up, or anchoring, as the case may be, such rafts, or any tugs or boats necessary to be used in making up or removing such rafts: Provided, That nothing in this act shall be construed as conferring upon the log interest any paramount rights, nor as authorizing any unnecessary interference with the rights of the public in any navigable waters, nor any unnecessary interference with the rights or privilege of the owners of the adjacent banks or shore, except as hereinbefore provided.

HISTORY: Add, 1881, p. 209. Act 171, Imd. Eff. May 31;—How. 3844;—C L 1897, 6720;—C L 1915, 8821—C L 1929, 11756.

Act 149, 1869, p. 287; Imd. Eff. April 5.

AN ACT to authorize the formation of corporations for the purpose of improving the navigation of rivers.

The People of the State of Michigan enact:

485.101 Corporations to improve rivers; formation; tolls. [M.S.A. 22.1511]

Sec. 1. That any number of persons may associate for the purpose of improving the navigation of any river in this state, by deepening the channel thereof and the construction of dams therein, and canals to connect therewith, upon such terms and conditions and subject to such liabilities as are prescribed in this act, and to take and receive such amounts of toll for the passage of vessels, boats, rafts, timber, logs and lumber, through such river, when the navigation shall be thus improved, as the board of control of the St. Mary's Falls ship canal may prescribe, as hereinafter provided.

HISTORY: CL 1871, 2716;—How 3845;—CL 1897, 6721;—CL 1915, 8822;—CL 1929, 11757.

RIVER AND CANAL IMPROVEMENT COMPANIES: Specifically excepted from the provisions of Act 84 of 1921, except as otherwise therein provided, see Sec. 8 of Ch. 1 of Pt. I, being CL 1929, 9950. See also Compilers' \$ 450.3 as to exemption from corporation code.

485.102 Same; certificate, contents, acknowledgment, recording, filing. [M.S.A. 22.1512]

- Sec. 2. Such persons, under their hands and seals, shall make a certificate which shall specify:
 - 1. The name of the corporation;
- 2. The stream and section of the stream the navigation of which it is proposed to improve;

- 3. A statement of the amount of capital stock of such company, and the number of shares into which the capital stock shall be divided;
- 4. The names and places of residence of the shareholders, and the number of sharehold by each of them respectively;
 - 5. The names of the first directors, being not less than 3 or more than 7;
 - o. The place in this state where their office for the transaction of business is located,
- 7. The term of existence of such corporation, which shall not exceed 30 years; which certificate shall be acknowledged as deeds are required to be acknowledged, and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a copy thereof filed in the office of the secretary of state.

HISTORY: CL 1871, 2717; -How. 3846; -CL 1897, 6722; -CL 1915, 8823; -CL 1929, 11758.

485.103 Body corporate, powers; governing law. [M.S.A. 22.1513]

Sec. 3. Upon complying with the provisions of the last preceding section, such company shall be, a body corporate, by the name designated in said certificate and as such shall be capable of suing and being sued, in all courts and in all manner of actions, and may have a common seal, and may by by-laws prescribe the manner of calling and conducting the meetings of the stockholders, and shall possess the powers and privileges, and be subject to the provisions contained in chapter 55, of title 10, of the Revised Statutes of A. D. 1846, entitled "General provisions relating to corporations," as far as the same shall be applicable and not inconsistent with the provisions of this act.

HISTORY: C.L. 1871, 2718—How 3847;—C.L. 1897, 6723;—C.L. 1915, 8824;—C.L. 1929, 11759. NOTE: Ch. 55, title 10 of R. S. 1846, above referred to, is Compilers' \$ 450.504 et se.,

485.104 Improvement of streams, consent of governor and attorney general. [M.S.A. 22.1514]

Sec. 4. No company formed or created under this act shall be authorized to improve the navigation of any stream under the provisions of this act, until they shall have obtained the assent in writing of the governor, and attorney general of this state.

HISTORY: C L 1871, 2719;—How. 3848;—C L 1897, 6724;—C L 1915, 8825;—C L 1929, 11760.

NAVIGABLE STREAM: To bridge or dam, permission must first be obtained from board of supervisors where dam or bridge is to be located. See Const. VIII, 14. See also Compilers' § § 46.21 to 46.24.

485.105 Map or plan, application for approval; hearing, procedure, approval; alteration of plan. [M.S.A. 22.1515]

Sec. 5. After the organization of any such company as aforesaid, they may prepare a map or plan of the section or sections of the stream or streams, the navigation of which they propose to improve, and a plan for the improvement of the same, which shall show and set forth the several points in such stream where improvements are proposed to be made and the nature and character of such improvements, and may submit the same to the board of control, and make application to said board for their approval thereof and their assent to the proposed improvements, whereupon the said board shall designate some regular meeting of their body at which said application shall be had. The company shall cause notice of said application and the meeting of the board fixed for the hearing thereof to be published once in each week for [the] 6 successive weeks next preceding the first day of said regular meeting in some newspaper published in Detroit, in some newspaper published in Grand Rapids and East Saginaw, and also in some newspaper published in the town where said corporation has its office, if there be one, and if not then in some newspaper of the same or an adjoining county, and also in some newspaper published nearest the place where said improvements are to be made, and shall cause proper proofs of said publication to be filed with the board of control. At the meeting designated therefor, or at such subsequent meeting as the hearing shall be adjourned to, the board of control shall proceed to hear and determine the matter of said application, on which hearing all parties interested therein may appear and be heard. If upon such hearing, the board shall be of opinion that the construction of the proposed improvement will be a public benefit, and that the company is a proper one to make the same, they shall endorse upon such map or plan their approval thereof, and their assent to the construction of the improvement proposed, and shall also fix the time within which the same shall be completed by the company. Said board of control may, in their discretion, alter or amend such plan or plans before approving the same, or may, at any time after such approval consent to the alteration of such plans, upon the petition of the company which shall have presented the same after the publication of a notice of the hearing of said petition in the same manner required in this section upon the hearing of the original application.

HISTORY: Am. 1871, p. 326. Act 194, Eff. July 18. C.L. 1871, 2720; Am. 1879, p. 180, Act 197, Eff. Aug. 30; How, 3849; C.L. 1897, 6725; C.L. 1915, 8826; C.L. 1929, 11761, BOARD OF CONTROL: See note relative to St. Mary's Falls Ship Canal under Sec. 1 of this act.

485.106 Directors; powers, election, term, vacancy, qualification. [M.S.A. 22.1516]

Sec. 6. The business and property of such company shall be managed and directed by a board of not less than 3, nor more than 7 directors, who, after the first year, shall be elected annually, or once in 2 years, as the by-laws of said company shall direct, and at such time and place as said by-laws may direct; and public notice shall be given of the time and place of holding such election not less than 20 days previous thereto, in such a manner as the by-laws of such company may direct; the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he shall own shares of stock, and the persons having the greatest number of votes shall be directors. Whenever any vacancy shall happen in the beard of directors, such vacancy shall be filled, for the remainder of the term, by the remaining directors. The directors shall hold their offices for 1 or 2 years, as said by-laws may direct, and until others are elected in their places, and no person shall be a director unless he is a stockholder in said company.

HISTORY: C L 1871, 2721 - How. 3850, - C L 1897, 6726, - C L 1915, 8827, - C L 1929, 11762

485.107 Same; calling of election. [M.S.A. 22.1517]

Sec. 7. In case it shall happen that an election for directors shall not be held as provided, the said corporation shall not be for that reason dissolved, but such election shall be held on some future day, to be fixed by the directors holding over, upon giving the notice therefor as in this act provided.

HISTORY: CL 1871, 2722; -How, 3851; -CL 1897, 6727; -CL 1915, 8828; -CL 1929, 11763.

485.108 Same; majority control. [M.S.A. 22.1518]

Sec. 8. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

HISTORY: CL 1871, 2723;—How. 3852;—CL 1897, 6728;—CL 1915, 8829;—CL 1929, 11764.

485.109 Same; president; treasurer; selection, vacancy. [M.S.A. 22.1519]

Sec. 9. The directors at their first meeting after their election, shall choose by ballot, 1 of their number as president, and 1 as treasurer, and they shall supply any vacancy in the office of president, or treasurer, whenever the same shall occur.

HISTORY: CL 1871, 2724;—How. 3853;—CL 1897, 6729;—CL 1915, 8830;—CL 1929, 11765.

485.110 President and directors; powers. [M.S.A. 22.1520]

Sec. 10. The president and directors shall have power to make and prescribe such by-laws rules and regulations respecting the transfer of stocks, and the management and control of the affairs and property of such corporation, as they may deem best, not inconsistent with the laws of the United States or of this state, and shall have power to appoint and employ officers, clerks, agents and servants for conducting and carrying on the business of such incorporation, and determine their duties, and salaries, and wages to be paid to them.

HISTORY: CL 1871, 2725;—How. 3854;—CL 1897, 6730;—CL 1915, 8831;—CL 1929, 11766.

485.111 Subscriptions; increase in capital stock, certificate, filing. [M.S.A. 22.1521]

Sec. 11. The directors of any such company may at any time receive subscriptions to stock in said company until the whole amount of the stock mentioned in their articles of association shall be subscribed; and whenever, in the judgment of the directors, it shall be necessary to increase the capital stock of any such company for the extension or more perfect completion of such proposed work, or to provide lands and buildings needful for its use, it shall be competent for such directors with the approval or ratification of the holders of a majority of the capital stock, at any lawful meeting of stockholders to provide for such increase; and in all cases where such capital stock is increased, a certificate thereof shall be signed, certified and filed as hereinbefore required in case of the original articles of association.

HISTORY: CL 1871, 2726;—How. 3855;—CL 1897, 6731;—CL 1915, 8832;—CL 1929, 11767.

485.112 Same; calling in; sale, procedure, purchaser's rights. [M.S.A. 22.1522]

Sec. 12. The directors may call in subscriptions to the capital stock of such corporation by installments, in such portions, and at such times and places, as they shall think proper, by giving notice thereof as the by-laws shall prescribe; and in case any stockholder shall neglect or refuse payment of any such installment for the space of 60 days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such delinquent stockholder may be sold by the directors, at public auction, at the office of the secretary of the corporation, giving at least 30 days' notice in some newspaper published in the county: Provided, That if said stockholder shall reside in this state, the stock shall be sold at the business office of said corporation, in the county in which they are doing business, giving at least 30 days' notice thereof in some newspaper published in the county; if no newspaper be published in the county in which such corporation transacts their business then it shall be published in the newspaper in the city of Detroit, which shall have, at the time, the largest circulation; and the proceeds of such sale shall be first applied in payment of the installment called for and the expenses on the same, and the residue shall be refunded to the owner thereof; and such sale shall entitle the purchaser to all the rights of a stockholder, to the extent of the shares so bought.

HISTORY: C.L. 1871, 2727; How, 3856; C.L. 1897, 6732; C.L. 1915, 8833; C.L. 1929, 11768.

485.113 Corporate powers. [M.S.A. 22.1523]

Sec. 13. Every such corporation organized as hereinbefore prescribed may make the improvements thus set forth in said plans after the same shall have been approved by said board of control, and shall have the following powers and be subject to the liabilities and restrictions following, that is to say:

First, to cause such examinations and surveys of [for] the proposed improvements whether of dams or canals, or deepening of the channels to be made along the stream, the navigation of which it is proposed to improve, as may be necessary to prepare for the work to be done, and by their officers and agents and servants to enter upon the lands or waters of any person or company, but subject to liability for all damages which they shall do thereto;

Second, To purchase and by voluntary grants and donations to receive, enter upon, take, hold and use all such lands and real estate and other property as may be necessary for the construction and maintenance of the work proposed in the approved plans of such company.

Third, To divert into such stream to be improved, waters from any lake or lakes in the vicinity thereof by canals to be constructed for that purpose; to divert the water from the present channel of the stream to be improved by cutting across bends in said river; to flood lands by constructing the necessary dams according to plans approved as aforesaid, and to enter upon, take and use any lands which may be necessary for the purpose of constructing and maintaining such works and improvements; Provided, That the necessity for such diversion of the water, flooding of lands, and of taking such lands for such purposes, and the damages to be paid therefor, in each case of diversion of water, flooding of land, or taking of the same shall be ascertained and such damages paid as provided for in sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 of an act entitled "An act to

provide for the formation of companies to construct plank roads," approved April 8th, 1851, being sections 1894 to 1905 inclusive of the Compiled Laws and the amendments thereto:

Fourth, (To have power to drive the logs put into such stream, and for that purpose to make and enforce all necessary contracts with the owners of the logs and other floatables to be driven in such stream, and may also make contracts relative to tolls to be paid by any person for the use for any number of years of any portion of any stream improved by such corporation and when any such contract is in writing the same shall be executed on the part of such corporation by its president and secretary under the seal of such corporation.)

HISTORY: C L 1871, 2728. How. 3857;—Am. 1883, p. 50, Act 62, Imd. Eff. May 2;—C L 1897, 6733;—C L 1915, 8834;—C L 1929, 11769.

485.114 Tolls; forfeiture of right to collect. [M.S.A. 22.1524]

Sec. 14. It shall be the duty of such company to complete the improvements contemplated by the plans approved as aforesaid within the time which shall be prescribed by the said board of control, at the time said plans shall be approved by said board of control, and in case of failure so to do said company shall forfeit all right to collect tolls of any person or persons whatever, who shall use for the purposes of navigation the improvements made by such company, unless the time for completing the same shall have been previously extended by said board of control, upon good cause shown, and after publication of a notice of said application as required by section 5 of this act.

HISTORY: C L 1871, 2729;—Am. 1879, p. 181, Act 197, Eff. Aug. 30;—How. 3858;—C L 1897, 6734;—C L 1915, 8835;—C L 1929, 11770

NOTE: Sees 13 to 25, inclusive, of Act 155 of 1851, above referred to, are C L 1915, 8691-8702, Rep. 1921, p. 186, Act 84, being C L 1929, 10134.

There is a fatal defect in the act itself in the reference to Secs. 13 to 25, inclusive, of the Plank Road Act. Such a method of incorporating certain sections of previous statutes in subsequent acts must be confined to cases where the sections referred to are germane to the latter act. Clay v. Penoyer Creek Imp. Co., 34 Mich. 204, 208.

485.115 Same; power of board to fix; jurisdiction of corporation; annual statement, contents. [M.S.A. 22.1525]

Sec. 15. Whenever any portion of said work shall be completed to the satisfaction of said board of control, and it is so far useful that in the opinion of said board of control tolls should be paid for the use thereof, said board may fix the tolls to be paid for the use of such portion until the whole of said work is completed; and whenever said improvements have been completed and accepted by said board of control, the rates of toll which any company organized under this act may charge for running rafts, timbers, logs or lumber through said improved stream, shall be fixed by said board of control, and may be graduated with reference to the distance run upon the portion of said stream improved by said company, and shall not be increased without the consent of said board, but may be changed from time to time by said board; but such toll shall not at any time be increased so that the sum shall amount to more than 15 per cent a year upon the actual cost of such improvements after deducting the necessary expenses and repairs, and the said board shall, as far as may be practicable, so fix the rates of toll on timber, logs, and lumber, that the same shall not at any time exceed the sum of 25 cents per 1,000 feet board measure on any stream where 10,000,000 of feet or less are run in any 1 year, 20 cents per 1,000 feet board measure on any stream where 30,000,000 of feet or less are run in any 1 year, nor more than 15 cents per 1,000 feet board measure on any stream where from 30,000,000 10 50.000,000 of feet are run in any 1 year, nor more than 10 cents per 1,000 feet board measure on any stream where from 50,000,000 to 100,000,000 of feet are run in any 1 year, nor more than 5 cents per 1,000 feet board measure on any stream where from 100,000,000 to 200,000,000 of feet or more are run in any 1 year, and the collection of such tolls shall be confined strictly to that part or portion of a river or stream so improved, and to that class of floatables benefited by the improvement; and nothing in this act shall be construed to give jurisdiction to any corporation over any portion of a river or stream other than the portion specifically improved by such corporation. Such corporation shall cause to be made out and filed with said board of control at or before its meeting, on the last Wednesday in March each year the affidavit of its president or 1 of its directors, setting forth in detail upon his best information and belief what amount of timber logs and lumber will be run through any section or sections of the river improved by the company during that

year, and that the official has made due and reasonable inquiry on the subject from persons tumbering on the river and otherwise.

HISTORY: Am. 1871, p. 327, Act 194. Eff. July 18, C.L. 1871, 2730; How. 3859;—C.L. 1897, 6735;—C.L. 1915, 88:9. C.L. 1929, 11771.

485.116 Same; improved streams open to all. [M.S.A. 22.1526]

Sec. 16. Any stream improved under this act shall be open to all persons for use, upon the payment of tolls, prescribed as aforesaid, for the passage of vessels, boats, logs, rafts, timber and lumber, through such improved stream or waters, and uniform rates of toll shall be charged to all persons, whether stockholders in such company or not.

HISTORY C.L. 1871, 2731; How. 3860; C.L. 1897, 6736; C.L. 1915, 8837; C.L. 1929, 11772

485.117 Same: collection. [M.S.A. 22.1527]

Sec. 17. Whenever said tolls are prescribed as aforesaid, the directors of the corporation may collect the same by action of assumpsit from persons using such improved portions of such stream. The proceedings in such action shall be in accordance with the practice of the courts in which such action is commenced in actions of assumpsit. HISTORY: C.L. 1871, 2732; Am. 1881, p. 75, Act 87, Imd. Eff. April 15.—How. 3861.—C.L. 1897, 6737, C.L. 1915, 8838; C.L. 1929, 11773.

485.118 Lien on floatables; sale, procedure. [M.S.A. 22.1528]

Sec. 18. Such company shall have a lien upon all logs, rafts, timber or lumber or other floatables driven, rafted or run through such stream or waters upon which toll shall be due, for such toll, and may sell a sufficient quantity of such logs, timber or lumber, or other floatables to satisfy said claim or demand, with the expense of such sale, at public auction on not less than 10 days' notice, either personally served upon such owner, or posted in 3 or more conspicuous places in the township where such logs are held, and in either case, by posting a like notice, also in the office of such company, of the mark, description and supposed owner of such logs, timber or lumber, and the charges for which the same is to be

HISTORY: C L 1871, 2733: How. 3862: C L 1897, 6738: C L 1915, 8839: C L 1929. 11774

485.119 Stream to be kept in repair; forfeiture. [M.S.A. 22.1529]

Sec. 19. The board of directors of any such company shall, at all times after commencing the collection of any tolls from persons using said improved stream or waters, keep such portions of the stream or waters clear of all unnecessary obstructions, and in good condition for the passage of rafts, timber, logs, lumber, vessels or boats for which toll is charged, and in case of any dilapidation or obstruction which is calculated to endanger or delay the passage of rafts, timber, logs or lumber, boats or vessels, as aforesaid, it shall be the duty of the board of directors, without unnecessary delay, to make such repairs, as shall restore such stream or waters to their proper condition; and in case said board of directors shall fail to comply with the provisions of this section, the corporation shall, for every such neglect or refusal, be liable to a forfeiture of 100 dollars to be recovered in an action of debt, by any person aggrieved or injured thereby: Provided, That in all cases 1 of said board of directors shall first have been notified of such defect, and the necessary time for its repair shall have elapsed after such notice and before the commencement of such suit.

HISTORY: CL 1871, 2734; -How. 3863; -CL 1897, 6739; -CL 1915, 8840; -CL 1929, 11775.

485.120 Injury to stream or property; penalty. [M.S.A. 22.1530]

Sec. 20. If any person shall wilfully obstruct any stream or waters improved, under the provisions of this act, or any part thereof, or shall wilfully destroy or injure any buildings, piers, dams, fixtures, banks or other constructions in use upon the same belonging to said company, such person or persons so offending shall, for every offense, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year, in the discretion of the court.

HISTORY: CL 1871, 2735; How. 3864; CL 1897, 6740; CL 1915, 8841; CL 1929, 11776.

485.121 Log jam; power to break, lien for cost. [M.S.A. 22.1531]

Sec. 21. If any person or persons shall put, or cause to be put, into said stream or waters, any logs, timber, or lumber, and shall not make adequate provisions and put on

sufficient force for breaking jams of such logs, timber or lumber in or upon such stream or waters, or for running rafting or driving the same, and thereby obstruct the floatage, or mavigation, it shall be lawful for such company, to cause such jams to be broken, and such logs, lumber or timbers to be run, driven, boomed, rafted or secured, at the charge and expense of the person or persons owning said logs, timber or lumber; and said company shall have a ken upon such logs, timber or lumber, as shall be sufficient to pay and satisfy all just and reasonable charges therefor, and expense and cost thereof, and shall be entitled to take and retain possession of such logs, timber or lumber, or so much thereof as may be necessary to satisfy the amount of such charges, for breaking such jams, and for driving, booming, rafting, and running of said logs, timber or lumber, and expenses and costs thereon, until the same be satisfied and paid; and such corporation shall proceed to collect such charges, costs and expenses, in the manner hereinafter prescribed.

HISTORY: CL 1871, 2736; How. 3865; CL 1897, 6741; CL 1915, 8842; CL 1929, 11777.

485.122 Lien; enforcement. [M.S.A. 22.1532]

Sec. 22. Any such corporation claiming any lien may bring an action of assumpsit against the owner of such property to determine and satisfy the amount of such lien or such corporation may waive its claim of lien and bring such action against such owner for the amount thereof. The proceedings in such actions shall be in accordance with the practice of the courts in which such action is commenced in actions of assumpsit. The property held under a claim of lien may be levied upon and sold to satisfy any judgment which may be rendered against such owner in such action, and the taxable costs in such case shall include the cost and expense of providing for the care and safety of such property. In cases where the claim of lien is waived under the provisions of this section the plaintiff shall have judgment if he shall establish on the trial such a state of facts as would have entitled him to a lien, and the judgment shall be collected as in ordinary cases in assumpsit: Provided, That such action shall be commenced within 60 days after such tolls shall become due.

HISTORY: CL 1871, 2737;—Am. 1883, p. 138, Act 132, Imd. Eff. May 31;—How. 3866;—CL 1897, 6742;—CL 1915, 8843;—CL 1929, 11778.

485.123 Lien on floatables; owner unknown or without jurisdiction of court. $[\,M.S.A.\,22.1533\,]$

Sec. 23. If the owner of such logs, timber or other floatables, cannot be ascertained, or is without the jurisdiction of the court, the proceeding to ascertain and determine the amount of such lien may be against the property, and commenced by filing the petition of said corporation, claiming such lien, in the proper court, which shall contain a statement of the nature and amount of the claim, and a description of the property seized, and that the owner of such property is unknown, or is without the jurisdiction of the court, and praying for a judgment against such property for the amount of such claim, which petition shall be verified by the oath of the president of such corporation filing the same, or its agent or attorney. The plaintiff shall thereupon, and before any trial shall be had, or judgment rendered, in such proceeding, cause a notice to be published for 4 successive weeks, at least once in each week, in some newspaper printed and circulated in such county, or if none is printed and circulated in such county, then in such other newspaper published in this state as such court shall direct, which notice shall state the title of the court, the name of the plaintiff, the name of the owner of the property taken, if known, the nature and amount of the claim, and the description of the property upon which the lien is sought to be enforced. The owner of such property shall have a right to appear and defend in such proceedings, at any time before judgment, upon such terms as the court shall direct; and in case of his appearance, an issue shall thereupon be formed as in actions of assumpsit, and all subsequent proceedings in such case shall be in accordance with the practice of such court in actions of assumpsit. If the owner shall fail to appear, in such proceeding the court may proceed ex parte, to hear try and determine the facts alleged in such petition, and render such judgment thereon as justice may require. If judgment shall be rendered in favor of such plaintiff, the court shall thereupon order that the property covered by such lien, or as much thereof as may be necessary, be sold to satisfy the amount of such judgment, with costs.

HISTORY: CL 1871, 2738; -How. 3867; -CL 1897, 6743; -CL 1915, 8844; -CL 1929, 11779.

485.124 Annual report; contents. | M.S.A. 22.1534|

Sec. 24. On or before the first Monday in January in each year it shall be the duty of the directors of every company formed under this act, to report to the secretary of state, under the oath of the secretary and 1 or more of the directors, the length of the stream or waters so improved; the cost of such improvements; the amount of money expended; the amount of their capital; how much of the same is paid in and how much is expended; the whole amount of tolls or earnings expended on such improvement; the amount received during the previous years for tolls and from all other sources, stating each separately; the amount set apart for repairs; the amount of dividends made and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.

HISTORY: CL 1871, 2739;—Am. 1883, p. 2, Act 3, Eff. Sept. 8;—How. 3868;—CL 1897, 6744; CL 1915, 8845;—CL 1929, 11780.

485.125 Taxation. [M.S.A. 22.1535]

Sec. 25. Each and every company formed under this act, shall pay to the treasurer he state of Michigan an annual tax at the rate of 1 per cent, on the whole amount apital paid in upon the capital stock of said company; which tax shall be estimated the last preceding report of said company, and shall be paid to the said treasurer, he first Monday in July of each year, and shall be in lieu of all other taxes upon all he property of said company.

HISTORY: C.L. 1871, 2740;—How, 3869;—C.L. 1897, 6745;—C.L. 1915, 8846;—C.L. 1929, 11781, SPECIFIC TAXES: Collection of, sec Compilers' \$ 207-441.

485.126 Stockholder's liability; recovery prerequisites. [M.S.A. 22.1536]

Sec. 26. The stockholders of every company organized in pursuance of this act, shall be jointly and severally personally liable for the payment of all debts, and demands against such association, which shall be contracted, or which shall be, or shall become due during the time of their holding such stocks, for any labor or services done or performed for such company: but no stockholder shall be proceeded against, for the collection of any debt or demand against such company, until judgment thereon shall have been obtained against the association and an execution on such judgment, shall have been returned, unsatisfied, in whole or in part, or unless such association shall be dissolved.

HISTORY: C.L. 1871, 2741:—How. 3870:—C.L. 1897, 6746:—C.L. 1915, 8847;—C.L. 1929, 11782

485.127 Shares deemed personalty; transfer. [M.S.A. 22.1537]

Sec. 27. The shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company. HISTORY: C L 1871, 2742;—How, 3871;—C L 1897, 6747;—C L 1915, 8848;—C L 1929, 11783.

HISTORY: C.L. 1871, 2743;—How. 3872;—C.L. 1897, 6748;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916, being Compilers' \$ 681.1

485.129 Governing laws. [M.S.A. 22.1538]

Sec. 29. All companies formed under this act shall at all times be subject to all general laws in force relative to corporations.

HISTORY: C.L. 1871, 2744; How 3873; C.L. 1897, 6749; C.L. 1915, 8849; C.L. 1929, 11784

Act 91, 1887, p. 98; Imd. Eff. April 26.

AN ACT to authorize the formation of corporations for the purpose of improving rivers which form, in whole or part, the boundary between this and any adjoining state, and their tributaries, and for driving, sorting, holding and delivering logs thereon.

The People of the State of Michigan enact:

485.201 Corporations to improve state boundary rivers; incorporators. [M.S.A. 22.1551]

Sec. 1. That any number of persons, not less than 5, may be formed into a corporation to improve any river and its tributaries which form, in whole or part, the boundary between this and any adjoining state, for the purpose of driving, sorting, holding and delivering logs thereon, and for such purpose only.

HISTORY: How. 3873a; -C L 1897, 6750; -C L 1915, 8850; -C L 1929, 11785.

485.202 Same; certificate, acknowledgment, contents, recording, filing.

[M.S.A. 22.1552]

Sec. 2. Such persons, under their hands and seals, shall make a certificate, which shall specify:

First, The purpose for which the corporation is formed and the name of the rivers pro-

posed to be improved;

Second, A statement of the amount of capital stock of such company and the number of shares into which the capital stock shall be divided;

Third, The names and residences of the stockholders and the number of shares held by each of them respectively;

Fourth. The amount of capital stock actually paid in;

Fifth, The names of the first directors, being not less than 3 nor more than 9;

Sixth, The place in this state where their office for the transaction of business is located:

Seventh. The term of existence of such corporation, which shall not exceed 30 years; which certificate shall be acknowledged as deeds are required to be acknowledged and recorded in the office of the clerk of the county in which the office of said company for the transaction of business is located, and a duplicate thereof filed in the office of the secretary of state.

HISTORY: How, 3873b; CL 1807, 6751; CL 1915, 8851; CL 1929, 11786.

485.203 Same; body corporate, powers. [M.S.A. 22.1553]

Sec. 3. Upon complying with the provisions of the last preceding section, such company shall be a body corporate by the name designated in said certificate, and as such shall be capable of suing and being sued in all courts, and may have a common seal, may elect in such manner as hereinafter provided all necessary officers, and determine their duties and make, from time to time, such by-laws, not inconsistent with the constitution and laws of this state, as a majority of the stockholders shall direct.

HISTORY: How. 3873c. - C L 1897, 6752; - C L 1915, 8852; - C L 1929, 11787

485.204 Annual report; contents, filing, inspection by stockholders.

[M.S.A. 22.1554]

Sec. 4. Every such corporation shall annually, in the month of January, make a report signed by its president and secretary, containing:

First, The amount of capital stock actually paid in;

Second, The amount invested in real and personal estate;

Third. The amount of their debts and credits, as near as may be;

Fourth. The name of each stockholder and the number of shares held by him at the date of such report; and every such report shall be verified by the oath of the officers signing the same, and shall be filed with the secretary of the association, and also in the office of the county clerk of the county in which the office of said association shall be located, and open at all reasonable times for the examination of any and all stockholders.

HISTORY: How. 3873d; C.L. 1897, 6753; C.L. 1915, 8853; C.L. 1929, 11788.

485.205 Stock divided into shares; increase. [M.S.A. 22.1555]

Sec. 5. The amount of the capital stock of every such corporation shall be fixed and limited by the stockholders in their articles of association and shall be divided into shares of 100 dollars each, 10 per cent of which shall be paid in. The capital stock and the number of shares may be increased at any meeting of the stockholders called for that purpose.

HISTORY: How. 3873e -- C.L. 1897, 6754; -- C.L. 1915, 8854; -- C.L. 1929, 11789.

485.206 First meeting, calling. [M.S.A. 22.1556]

Sec. 6. When any corporation shall be formed under this act, any 2 of those associated may call the first meeting of the corporation at such time and place as they may appoint, by giving notice thereof by publishing the same in some newspaper published in the county where the office of such corporation is located, at least 15 days before the time appointed for such meeting, or by personal service of like notice upon each of the stockholders 10 days before the time fixed for said meeting.

HISTORY: How. 3873f;—CL 1897, 6755;—CL 1915, 8855,—CL 1929, 11790.

485.207 Directors; powers, election, term, officers, selection, term. [M.S.A. 22.1557]

Sec. 7. The business and property of said company shall be managed by a board of directors of not less than 3 nor more than 9 directors, who, after the first year shall be elected annually as the by-laws of said company shall direct; and public notice shall be given of the time and place of holding such election as the by-laws of said company may direct. Such board of directors, when elected, shall choose from their number a president secretary and treasurer, who shall hold their respective offices for the term of 1 year, and such board of directors may appoint such other officers and agents as their articles of association or their by-laws may require, who shall hold their respective offices during the pleasure of the directors.

HISTORY: How. 3873g; CL 1897, 6756; CL 1915, 8856; CL 1929, 11791.

485.208 Same; stockholders; quorum; voting. | M.S.A. 22.1558 |

Sec. 8. A majority of the directors of every such corporation convened according to the by-laws, shall constitute a quorum for the transaction of business, and those holding a majority of stock at any meeting of the stockholders shall be capable of transacting the business of the meeting, and at each meeting of the stockholders each share of stock shall be entitled to 1 vote. Stockholders may appear and vote in person or by proxy.

HISTORY: How. 3873h; -CL 1897, 6757; -CL 1915, 8857; -CL 1929, 11792.

485.209 Property; holding. [N.S.A. 22.1559]

Sec. 9. Every such corporation shall, by their corporate name, have powers to acquire, use and hold all such works and improvements, and all such real and personal property as may be necessary or suitable for the purposes of such corporation, and to take or flow lands or property in the construction of the works or improvements hereby authorized.

HISTORY: How. 3873i;—C L 1897, 6758;—C L 1915, 8858;—C L 1929, 11793.

485.210 Condemnation. [M.S.A. 22.1560]

Sec. 10. Whenever any such corporation shall desire to take or flow any lands or property in the construction of the works or improvements authorized by this act, when no agreement can be made with the owners thereof, the like proceedings shall be had and taken as is provided in an act entitled, "An act to provide for the formation of companies to construct plank roads, approved April 8, 1851, and the acts amendatory thereto."

HISTORY: How. 3873j - C.L. 1897, 6759; - C.L. 1915, 8859; - C.L. 1929, 11794. Act 155 of 1851, above referred to, are CL 1915, 8691-8702, kep. 1921, p. 186, Act 84, being C L 1929, 10134.

485.211 Improvement powers; repair duty; driving of logs; tolls and expenses, lien. [M.S.A. 22.1561]

Sec. 11. Any such corporation formed for the improvement of any boundary river in whole or part and any of its tributaries, and for driving, sorting, holding and delivering logs thereon, which shall have taken prior possession of such boundary river for that purpose, shall have power to improve such river and its tributaries by clearing and straightening the channels thereof, closing sloughs, erecting sluiceways, booms of all kinds, side rolling and flooding dams, driving piles and erecting piers or otherwise, as may be necessary or suitable for the purpose aforesaid: Provided, That such sluiceways, booms, dams, piles and piers shall so far as practicable, be so constructed and used as to allow of the free passage of logs, timber and other floatables along such waters. Every corporation which shall so improve a boundary river or any of its tributaries for the purpose of driving logs thereon, and keep in repair and operate its works, may charge and collect reasonable and uniform tolls upon all logs, lumber and timber driven or floated on the same, and may take possession of all logs put into said stream, or upon rollways so as to impede the drive, when the owners thereof or their agents shall not have come upon the stream adequately provided with men, teams and tools for breaking rollways and driving such logs in season for making a through drive down such stream without hindering the main drive and shall also at the request of the owner of any logs and timber put into said stream, take charge of the same

and drive the same down and out of such stream, and charge and collect therefor of the owner or party controlling said logs and timber reasonable charges and expenses for such services, (and all charges for running, driving, booming, towing, rafting, sorting and delivering of logs, timber or lumber by such corporation shall be by the scale of such logs, timber or lumber per 1,000 feet board measure); and such corporation shall for all such tolls, costs and expenses, have a lien on the logs for which the same were incurred, and shall be entitled to maintain possession of such logs or timber, or so much thereof as may be necessary to satisfy the amount of such tolls, costs and all expenses for taking care of the same until the same shall be determined, satisfied and paid in the manner hereinafter prescribed.

HISTORY: How. 3873k;—Am. 1889, p. 49, Act 42, Eff. Oct. 2;—C L 1897, 6760;—C L 1915, 8860;—C L 1929, 11795.

485.212 Lien; enforcement. [M.S.A. 22.1562]

Sec. 12. Any such corporation claiming any lien as provided for in the preceding sec tion, may recover the amount of such lien in the manner provided in sections 17 and 18 of an act entitled "An act to authorize the formation of corporations for the running, booming and rafting of logs," approved Feburary 4, 1864.

HISTORY: How. 3873-1;—CL 1897, 6716;—CL 1915, 8861;—CL 1929, 11796.

Secs. 17 and 18 of Act 16 of 1864, above referred to, are C.L. 1915, 8644-8645. Rep. 1921, p. 186, Act 84, being C.L. 1919, 19134

485.213 Consolidation, procedure; powers of new corporation; articles or certified copy as evidence. [M.S.A. 22.1563]

Sec. 13. Any corporation formed under this act and any corporation of an adjoining state created for any similar or kindred purpose upon the same river may consolidate their stock, property and franchises in the manner and upon the terms agreed upon by the respective corporations and such consolidated corporations shall possess and have authority to exercise all the rights, privileges and franchises granted by this act: Provided, That no such consolidation shall be made without the assent of the holders of 34 of the capital stock of the consolidating companies. And provided further, That in case of any consolidation of corporations under this act, such consolidated corporations shall have power to assume a name, fix their capital stock, which shall in no case exceed the joint capital of the corporations so consolidated, to fix the number of its directors, which shall be not less than 3 nor more than 9, to adopt a common seal and to fix its term of existence which shall not exceed 30 years from the date of such consolidation, and such articles of consolidation, when duly executed and filed in the office of the secretary of state or a certified copy thereof, shall be prima facie evidence in all courts of the existence of such consolidated company.

HISTORY: How. 3873m; - C L 1897, 6762; - C L 1915, 8862; - C L 1929, 11797.

485.214 Delivery duties; liability for damages. [M.S.A. 22.1564]

Sec. 14. It shall be the duty of said corporation to provide for the delivery of and to deliver to the respective owners and parties entitled to receive the same the logs and timber driven, boomed, or sorted by such corporation, with prompt and impartial diligence, and no owners and parties ready to receive their logs and timber shall be delayed in the sorting and delivery thereof because other owners or parties are not ready to receive the delivery of their logs and timber. And such corporation shall be liable to any owners of logs and timber and to any parties entitled to receive from such corporation any logs and timber, for all damages which they may suffer by reason of the failure of such corporation to comply with the provisions of this section.

HISTORY: Add. 1889, p. 50, Act 42, Eff. Oct. 2;—How. 3873n;—CL 1897, 6763;—CL 1915, 8863;—CL 1929, 11798.

Act 188, 1889, p. 218; Imd. Eff. June 26.

AN ACT to provide for the organization and incorporation of companies for clearing out and improving rivers, and streams in this state for the purpose of driving, sorting, holding and delivering logs thereon.

The People of the State of Michigan enact:

485.301 Corporations to improve rivers for logging; incorporation, control of stream. [M.S.A. 22.1571]

Sec. 1. That any corporation now in existence, or which may hereafter be organized under any law of this state, having as its object the clearing out and improving of any river or stream navigable only for the purpose of driving logs and floating timber within the state, for the purpose of driving, sorting, holding and delivering logs thereon, which has taken possession of such stream, and made permanent and valuable improvements thereon by clearing and straightening the channels thereof, closing sloughs, erecting sluiceways, or building dams, as may be required; or where individuals have made such improvements, with the intention of subsequently incorporating, such corporation or individuals shall have the right to control such stream, under such restrictions, and in the manner following: Provided. That in all cases where individuals have already made improvements upon any stream or streams they shall proceed to incorporate under the laws of this state, within 4 months from the passage of this act.

HISTORY: How, 38730;—C.L. 1897, 6764;—C.L. 1915, 8864;—C.L. 1929, 11799 RIVER IMPROVEMENT COMPANIES: Specifically excepted from the provisions of Act. 84 of 1921 except as otherwise therein provided, see Sec. 8 of Ch. 1 of Pt. I, being C.L. 1929, 9950. See also Compilers § 450.3, as to exemption from corporation code.

485.302 Procedure to come under act; forfeiture of rights. [M.S.A. 22.1572]

Sec. 2. Every corporation and all individuals desiring to avail themselves of the provisions of this act, shall file with the board of control of the St. Mary's Falls ship canal company a map or plan of the section or sections of the stream or streams which have been so improved, accompanied by the affidavit of the secretary of any such corporation, or any 2 individuals intending to thus incorporate, setting forth fully the nature and value of said improvements, and also generally what further improvements if any, are contemplated and the estimated cost of the same, whereupon such corporation or individuals shall have the right to control said stream and collect tolls for running, rafting and driving logs, as hereinafter provided: Provided, however, That where individuals have improved any stream upon failure to incorporate and file due proof of the same with the said board of control of the St. Mary's Falls ship canal company, within said period of 4 months, all their rights under this act shall be forfeited by mere operation of law without notice.

HISTORY: How. 3873p.—C.L. 1897, 6765.—C.L. 1915, 8865.—C.L. 1929, 11800.
BOARD OF CONTROL: See note to Compilers' § 485.101 relative to St. Mary's Falls Ship Canal.

485.303 Corporation; vested rights, restrictions. [M.S.A. 22.1573]

Sec. 3. Upon complying with the foregoing provisions of this act, such corporation shall be vested with all the rights, powers and franchises now conferred upon corporations organized under chapter 111 of Howell's annotated statutes, and shall in every particular be governed thereafter by the provisions and restrictions of said chapter.

HISTORY: How, 3873q:—C L 1897, 6766;—C L 1915, 8866;—C L 1929, 11801. NOTE: Chap. 111 of How, above referred to, is Compilers' \$ \$ 485,101 to 485.129

STATE OF MICHIGAN

LAWS RELATING TO

WATER



enacted by

74th LEGISLATURE REGULAR SESSION OF 1967

PREPARED BY
WATER RESOURCES COMMISSION
DEPARTMENT OF CONSERVATION

AUGUST 1967

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PUBLIC ACTS PASSED BY 74th LEGISLATURE - 1967 - REGULAR SESSION

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Amends Title and Secs. 1,2,7,8,9,10,11,12,14 and 15, Act No. 185, P.A. 1957, as amended by Act No. 214, P.A. 1961, and Act No. 42, P.A. 1964 (C.L. 123.731, etc.) of the Compiled Laws of 1948.

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Act 172 of 1967. DRAIN CODE-CONSTRUCTION PP.10-11 Permits supplemental work to be done on drains without the need of new petitions, as was previously required for lateral or branch drains.

Amends Sec. 194, Act No. 40, P.A. 1956, as amended by Act No. 119, P.A. 1957 (C.L. 280.194) of the Compiled Laws of 1948.

Act 214 of 1967. DRAIN CODE

Amends Drain Code re: number of freeholders needed to petition
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to "a percentage of assessments"; procedure for citation, service,
etc.; hearings (necessity must be determined); payments by owners
or developers of property of pro rata, equitable share of drain
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WATERWAYS COMMISSION

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Amends Secs. 1,3,4,5,6, and 7, Act No. 257, P.A. 1952 (C.L. 281.561 etc.) of the Compiled Laws of 1948. Repeals Sec. 9, Act No. 257, P.A. 1952 (C.L. 281.569) of the Compiled Laws of 1948.

DEPARTMENT OF CONSERVATION

Act 26 of 1967. CONSERVATION-SPORTSMEN'S FISHING LAW PP.20-21 Redefines "trout stream" to mean "any stream, or portion of any stream which contains a significant population of any species of trout or salmon as determined by the Director of Conservation."

DEPARTMENT OF CONSERVATION (cont'd)

Amends Sec. 8, Chapter 1, Act No. 165, P.A. 1929, as amended by Act No. 151, P.A. 1964 (C.L. 301.8) of the Compiled Laws of 1948.

Act 98 of 1967. WATER RESOURCES-POLLUTION-OIL AND CAS WELLS
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in inland lakes and streams and Great Lakes and connecting waters.

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WATER RESOURCES MANAGEMENT

Act 205 of 1967. AGRICULTURE-IRRIGATION DISTRICTS-WATER RESOURCES PP.26-35 Creates irrigation districts in counties under 400,000 population; under Water Resources Commission; to develop systems using water from Great Lakes only, etc., to be financed by special assessments, etc. (NEW)

DEPARTMENT OF PUBLIC HEALTH

Act 77 of 1967. <u>PUBLIC HEALTH-SEPTIC TANKS-PLUMBERS</u> PP.36-39 Licenses solicitors for septic tank services with \$25.00 fee; controls disposal of sewage, exempts master plumber with less than 3 vehicles, etc.

Amends Title and Secs. 1,2,3,4,5 and 6, Act No. 243, P.A. 1951, Secs. 1,3 and 4, as amended by Act No. 42, P.A. 1957, (C.L. 325.281, etc.) of the Compiled Laws of 1948.

Act 218 of 1967. PUBLIC HEALTH-PUBLIC BATHING BEACHES

Procedure for health department to control public bathing beaches through circuit court injunctive actions. Water quality standards of Water Resources Commission must be applied, etc. No change in authority of local health agencies. (NEW)

PUBLIC SERVICE COMMISSION

Act 19 of 1967. WATER COMPANIES-PUBLIC SERVICE COMMISSION PP.42-45 Places supervision and regulation of water companies, as defined, including rates, under Public Service Commission. Municipally owned are exempt. (NEW)

PLAT REGULATIONS

Act 288 of 1967. REAL ESTATE-PLAT ACT-("HUBER" ACT)

A 72 page rewrite of Plat Act governing subdivision, layout and use of land, etc. (NEW)

PP.46-67

Repeals Act No. 172, P.A. 1929 (C.L. 560.1 to 560.80) of the Compiled Laws of 1948.

Act No. 63
Public Acts of 1967
Approved by Governor
June 20, 1967

STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Senator Zaagman

ENROLLED SENATE BILL No. 84

AN ACT to amend the title and sections 1, 2, 7, 8, 9, 10, 11, 12, 14 and 15 of Act No. 185 of the Public Acts of 1957, entitled "An act to authorize the establishing of a department and board of public works in counties containing more than 75,000 inhabitants; to prescribe the powers and duties of any county subject to the provisions of this act; to authorize the issuance and payment of bonds; and to prescribe a procedure for special assessments and condemnation," as amended by Act No. 214 of the Public Acts of 1961 and Act No. 42 of the Public Acts of 1964, being sections 123,731, 123,732, 123,735, 123,738, 123,739, 123,740, 123,741, 123,742, 123,744 and 123,745 of the Compiled Laws of 1948.

The People of the State of Michigan enact:

Section 1. The title and sections 1, 2, 7, 8, 9, 10, 11, 12, 14 and 15 of Act No. 185 of the Public Acts of 1957, as amended by Act No. 214 of the Public Acts of 1961 and Act No. 42 of the Public Acts of 1964, being sections 123,731, 123,732, 123,737, 123,738, 123,739, 123,740, 123,741, 123,742, 123,744 and 123,745 of the Compiled Laws of 1948, are amended to read as follows:

An act to authorize the establishing of a department and board of public works in counties; to prescribe the powers and duties of any county subject to the provisions of this act; to authorize the issuance and payment of bonds; and to prescribe a procedure for special assessments and condemnation.

Sec. 1. As used in this act:

(a) "Members elect" means when applied to the board of supervisors, both members elected and appointed.

(b) "Acquire" means acquisition by purchase, construction or any other method.

(c) "Water supply system" means all plants, works, instrumentalities and properties, used or useful in connection with obtaining a water supply, the treatment of water or the distribution of water.

(d) "Sewage disposal system" means all sanitary sewers, storm sewers, combined sanitary and storm sewers, plants, works, instrumentalities and properties, used or useful in connection with the collection, treatment or disposal of sewage (including storm water, sanitary sewage or industrial wastes).

(e) "Refuse system" means disposal, including all equipment and facilities for storing, handling, processing and disposing of refuse, including plants, works, instrumentalities and properties, used or useful in connection with the salvage or disposal of refuse and used or useful in the creation, sale or disposal of by-products, including rock, sand, clay, gravel or timber.

(f) "Refuse" means putrescrible and nonputrescrible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and industrial wastes.

(g) "Municipality" means any county, city, village, township, charter township, drainage district, or authority existing under the laws of the state.

(h) "Resolution" means a resolution or an ordinance in event the governing body of any municipality chooses to act by ordinance rather than by resolution.

(i) "Governing body" means, in the case of a county, the board of supervisors; in the case of a city, the council, common council, commission or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees or other body having legislative powers; in the case of a township, the township board; in the case of a charter township, the township board; in the case of a drainage district, the drain commissioner or the drainage board; and in the case of an authority, the body in which is lodged general governing powers.

Sec. 2. The board of supervisors of any county, by resolution adopted by a 2/3 vote of its members elect, may establish a department of public works for the administration of the powers conferred upon the county by the terms of this act. However, the provisions of this act as to refuse systems and refuse are not applicable to any county having a population of more than 400,000. The department of public works shall be under the general control of the board of supervisors of the county and under the immediate control of a board of public works consisting of 3, 5 or 7 members who shall be appointed or removed by the board of supervisors. Members of the board of supervisors may be appointed as members of the board of public works. All such appointments heretofore made are hereby validated. Tenure of office on the board of public works shall automatically terminate whenever he is no longer a member of the board of supervisors. The size of the board of public works shall be determined by the board of supervisors. In the first instance, in case of a 3-member board, members shall be appointed for terms ending 1 year, 2 years and 3 years from the following January 1; in the case of a 5-member board. 1 member shall be appointed for a term ending 1 year, 2 members for a term ending 2 years, and 2 members for a term ending 3 years, from the following January 1; and in the case of a 7-member board, 2 members shall be appointed for a term ending 1 year, 2 members for a term ending 2 years and 3 members for a term ending 3 years, from the following January 1. Thereafter each member shall be appointed for a term of 3 years. Each term shall expire at noon on January 1 but each member shall hold office until his successor is

appointed and qualifies. Any vacancy shall be filled by the board of supervisors for the unexpired term. If there is a county drain commissioner in any county having a department of public work, then he shall be appointed as a member of the board of public works, provided his membership on the board shall terminate when he ceases to be county drain commissioner. Notwithstanding any other provisions of this act, the board of supervisors, by resolution adopted by a 2-3 vote of all its members, may designate or remove the board of county road commissioners to be the board of public works instead of the board of public works as provided for in this section, and after the adoption of the resolution the board of county road commissioners shall be the board of public works for that county with all the authority, powers and duties conferred by law upon the board of public works. The board of public works shall be deemed an agency of the county. The board of supervisors shall make such rules and regulations in respect to the department of public works as it shall deem advisable. The members of the board of public works shall not be deemed to be fulltime officers of the county and the duties of the county drain commissioner or of any county road commissioner who serves on the board of public works are declared to be additional and seperate duties not compensated for by the established salary or per diem of the commissioner. The compensation of all members shall be fixed by the board of supervisors

Sec. 7. Any county establishing a department of public works shall have the following powers to be administered by the board of public works subject to any limitations thereon:

(a) To acquire a water supply system within any 1 or more areas in the county, and to improve, enlarge, extend, operate and maintain such system.

(b) To acquire a sewage disposal system within any 1 or more areas in the county, and to improve, enlarge, extend, operate and maintain such system.

(c) To acquire a refuse system within any 1 or more areas in the county, and to improve, enlarge, extend, operate and maintain the system.

Sec. 8. Any county operating under this act may acquire outside its corporate limits any part of a water supply system which is necessary for the purpose of securing a source of supply and may acquire outside its corporate limits any part of a sewage disposal system or refuse system which is necessary for the purpose of disposing, including treatment or incineration, of its sewage or refuse. Any county operating under this act may also acquire for any purpose any part of a water supply system and any part of a sewage disposal system or any part of a refuse system in an adjoining county or counties upon the consent expressed by contract with or resolution of the governing body of the municipality or municipalities in such adjoining county or counties in which such part of such system is to be located or which is to be served by such part of such system. The exercise by any county of such powers outside its corporate limits shall be subject to all constitutional provisions relating thereto.

Sec. 9. No county shall have the power to furnish water service, sewage disposal service or refuse service to the individual users within any municipality without its consent. The foregoing shall not prevent the county from extending any sewage disposal system or refuse system into any municipality where in the opinion of a majority of the members elect of the board of supervisors the same is necessary to protect health or property in any adjacent municipality and from furnishing sewage disposal or refuse services to individual users therein. Any such extensions may be constructed along with the construction of the original system or thereafter.

Sec. 10. The establishment of any county water supply system, county sewage disposal system or county refuse system shall be approved by a majority of the members elect of the county board of supervisors. After such approval the board of public works shall have power to acquire such system and to improve, enlarge, extend, operate and maintain the same, subject to any restrictions placed thereon by the board of supervisors in the resolution establishing the same or by this act. Any 2 or more systems established by any county and the areas served thereby may be merged or combined by resolution adopted by a majority of the members elect of its board of supervisors after which the merged or combined systems may be improved, enlarged, extended, operated and maintained under this act as a single

system serving the total areas of the systems but no merger or combination shall affect either the rights and obligations acquired by any municipality by any contract with respect to any established system or the security of any bonds or the prompt payment of principal or interest thereon. A resolution adopted by the governing body of any city, village, township or charter township authorizing and approving a contract with respect to the financing of or service from any sewage disposal or refuse system constitutes, notwithstanding any statutory or charter limitation to the contrary, a permit to acquire, improve, enlarge, extend, operate and maintain the sewage disposal or refuse system within the corporate limits of the city, village, township or charter township, but no treatment or disposal plants, incinerators, works, grounds, filter beds or other similar sewage or refuse disposal facilities, sanitary landfills or dumps shall actually be located in any such municipality without such resolution and contract.

Sec. 11. (1) The acquirement of any water supply system, sewage disposal system or refuse system or the improvement, enlargement or extension thereof may be financed in any 1 of the following methods, or any combination thereof:

(a) By the issuance of revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948.

or any other applicable act.

(b) By the issuance of bonds secured by payments to become due under contracts whereby 1 or more municipalities agree to pay to the county operating under this act certain sums toward the cost of the acquisition, improvement, enlargement or extension of any project which may be made hereunder.

(c) By the issuance of bonds in anticipation of the payment of special assessments

made by the board of public works.

(d) By moneys advanced by a county operating under this act under agreements with

a municipality or municipalities for the repayment of the same.

(e) By moneys advanced, from time to time prior to or during construction of any project, by any public or private corporation, firm or individual, in which event the county operating under this act shall reimburse the person, firm or corporation, with interest not to exceed 6% per annum or without interest as may be agreed, when funds are available therefor. The obligation of the county to make the reimbursement may be evidenced by a contract or note, which contract or note may be made payable out of the payments to be made by municipalities, under contracts as described in section 12 or 15, or out of the proceeds of bonds issued pursuant to this act by the county or out of any other available funds, but the contract or note shall not be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

(2) Bonds to be issued under this act shall be authorized by an ordinance or resolution approved by the board of public works and adopted by the county board of supervisors of the county operating under this act. The board of supervisors is hereby authorized, by a 3/5 vote of its members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds issued pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest on revenue bonds notwithstanding any contrary provision in the acts referred to in subdivision (a) of subsection (1). If it shall become necessary for the county operating under this act to advance any moneys, other than its share of the cost of the project, for the payment of principal and interest, then it shall be entitled to reimbursement from any surplus from time to time existing in the fund from which said principal and interest are primarily payable. The bonds shall be issued in the name of the county operating under this act and shall be executed by the chairman of its board of supervisors and its county clerk, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The county clerk shall also affix to the bonds the seal of the county. Bonds issued hereunder shall be negotiable instruments and shall be serial bonds payable annually. with the first maturity due not more than 5 years and the last maturity not more than 40 years, from the date thereof. The foregoing provisions shall apply to special assessment

bonds as well as other bonds. No annual maturity payable after 5 years from the date of the bonds shall be less than 1/4 of the amount of any subsequent maturity on the same series of bonds. The bonds shall bear interest at not more than o% per annum payable semi-annually except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be made payable in lawful money of the United States of America and shall be exempt from any and all taxation whatsoever by the state or by any taxing authority within the state. The board of supervisors may authorize the board of public works to sell any such bonds in accordance with the laws of the state.

Sec. 12. (1) The county operating under this act and any 1 or more municipalities including the county itself may enter into a contract or contracts for the acquisition, improvement, enlargement or extension of a water supply system, a sewage disposal system or a refuse system and for the payment of the cost thereof by such contracting municipalities.

with interest, over a period not exceeding 40 years.

- (2) In any such contract or contracts each contracting municipality shall pledge its full faith and credit for the payment of its obligations thereunder and if the municipality has taxing power, shall each year levy a tax, which shall not be within any statutory or charter limitation, in an amount which, taking into consideration estimated delinquencies in tax collections, will be sufficient for the prompt payment of that part of the contract obligations as shall fall due before the following year's tax collection. For the payment of contractual obligations incurred pursuant to this act, a township shall levy a tax only on the taxable property in the unincorporated areas of the township unless the township and a village have agreed that a part of the capacity in the county system allocated to the township by contract pursuant to this act will be used to serve areas in a village located wholly or partly within the township and the village has not itself agreed to purchase such capacity in the county system. If any contracting municipality at the time of its annual tax levy shall have on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining such credit, funds may be raised by any municipality in any 1 or more of the following methods:
 - (a) By service charges to users of the system;(b) By special assessment upon lands benefited;

(c) By the exaction of charges for the connection of properties, directly or indirectly, to the system;

(d) By setting aside any state collected funds disbursed to the municipality and usable therefor; and

(e) By setting aside any other available moneys.

The foregoing tax requirements when applied to a county or township shall be subject to any constitutional tax limitation or any lawful increase thereof. Any municipality may agree to raise all or any part of its contract obligation by any 1 or more of the foregoing methods which may be available. The various powers in this act granted to any municipality shall be exercised by its governing body. Any contract heretofore entered into which complies with the provisions of this act, as now amended, is hereby validated.

Sec. 14. Any county operating hereunder, by action of its board of public works, may acquire property for a water supply system, a sewage disposal system or a refuse system by purchase, construction, lease, gift, devise or condemnation, either within or without its corporate limits and may hold, manage, control, sell, exchange or lease such property. No real estate shall be disposed of without the approval of the board of supervisors. For the purpose of condemnation it may proceed as provided in chapter 3.

Sec. 15. Any 1 or more municipalities or other public corporations, either within or without the county, shall have authority to contract for the purchase of water or sewage or refuse services or transportation from a county operating under this act. Any charges specified in any such contract shall be subject to increase by such county at any time, if necessary, in order to provide funds to meet the obligations of the project involved. The county operating under this act may enter into contract with any public or private corporation, for the purchase by such county from or for the sale by the county to the cor-

poration of water or sewage or refuse serv	ices, and for the right to transport sewage through
the sewers of the county or of the corpo- contract authorized herein shall be for a p	pration or to use the facilities of the other. Any
This act is ordered to take immediate e	ffect.
_	Secretary of the Senate.
	Clerk of the House of Representatives.
Approved	
Gover	nor.
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Act No. 172
Public Auto of 1967
Approved by Governouse 30, 1967

74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Reps. Little, Novak and Mrs. Ferguson

ENROLLED HOUSE BILL No. 2664

AN ACT to amend section 194 of Act No. 40 of the Public Acts of 1956, entitled "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, and such structures and mechanical devices as will properly purify the flow of such drains; to provide for flood control projects; to provide for water management, water management districts and subdistricts, and for flood control and drainage projects within such districts; to provide for the assessment and collection of taxes; to prescribe penalties for violations of the provisions of this act; and to repeal certain acts and parts of acts," as amended by Act No. 119 of the Public Acts of 1957, being section 280.194 of the Compiled Laws of 1948.

The People of the State of Michigan enact:

Section 1. Section 194 of Act No. 40 of the Public Acts of 1956, as amended by Act No. 119 of the Public Acts of 1957, being section 280.194 of the Compiled Laws of 1948, is amended to read as follows:

Sec. 194. In any petition filed under this chapter it shall not be necessary for the petitioners to describe said drain other than by its name or to describe its commencement, general route and terminus. For any work necessary to be done in cleaning out, widening, deepening, straightening, consolidating, extending, relocating, tiling or relocating along a highway, or for providing structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow

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of the drain or needs supplementing by the construction of 1 or more relief drains which may consist of new drains or extensions, enlargements or connections to existing drains, or needs 1 or more branches added thereto, and for any and all such proceedings, only 1 petition and proceeding shall be necessary.

This act is ordered to take immediate effect.

		Clerk of the House of Representatives
		Secretary of the Senate
		beliefally of the Senate
proved		
	Governor.	
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STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Reps. Little, Prescott, Traxler, Novak, Jacobetti, Callahan, Stacey, Rohlfs, Robert W. Davis, Strange, Woodman, Kolderman, Edson V. Root, Jr., Swallow and Mrs. Hunsinger

ENROLLED HOUSE BILL No. 2388

AN ACT to amend sections 71, 78, 81, 302 and 486 of Act No. 40 of the Public Acts of 1956, entitled "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, and such structures and mechanical devices as will properly purify the flow of such drain; to provide for flood control projects; to provide for water management, water management districts and subdistricts, and for flood control and drainage projects within such districts; to provide for the assessment and collection of taxes; to prescribe penalties for violations of the provisions of this act; and to repeal certain acts and parts of acts," section 302 as amended by Act No. 228 of the Public Acts of 1963, being sections 280.71, 280.78, 280.81, 280.302 and 280.486 of the Compiled Laws of 1948; and to add 3 new sections to stand as sections 87, 88 and 433.

The People of the State of Michigan enact:

Section 1. Sections 71, 78, 81, 302 and 486 of Act No. 40 of the Public Acts of 1956, section 302 as amended by Act No. 228 of the Public Acts of 1963, being sections 280.71, 280.78, 280.81, 280.302 and 280.486 of the Compiled Laws of 1948, are amended and 3 new sections to stand as sections 87, 88 and 433 are added, the amended and added sections to read as follows:

Sec. 71. After a drainage district has been established and the order therefor filed with the county drain commissioner, a petition to locate, establish and construct a drain may be filed with the commissioner having jurisdiction of the lands designated in such order as constituting the drainage district. Such petition shall ask for the location, establishment and construction of the drain or drains, or any part thereof, as described in said order. The petition shall be signed by a number of freeholders in said drainage district whose lands would be liable to an assessment for benefits, equal to ½ the number of freeholders whose lands would be traversed by the drain or drains applied for or abut on any highway or street along the side of which such drain extends, between the point where such drain enters such highway and the point where it leaves such highway and which lands are within the drainage district. Such petition shall be accompanied by a description of the land in said district owned by each signer and by a certificate of the county treasurer as to payment of taxes and special assessments against such lands. Such certificate shall be in substantially the following form:

I hereby certify that there are no taxes or special assessments unpaid against any of the lands described in the annexed list according to the records of the county treasurer's office for the past 3 years, except as follows:

Description

Year

Tax or assessment

Amount

The name of any signer as to whose land such certificate shows taxes or assessments unpaid for 3 years shall not be counted. The eligibility of the signers to such petition shall be determined by the commissioner according to their interest of record in the office of the register of deeds in the probate court or the circuit court of the county in which such lands are situated at the time such petition is filed. In determining the number of owners whose lands are traversed by such drain, or abut thereon as hereinbefore prescribed, the drain commissioner shall investigate the records of the register of deeds, of the probate court and of the circuit court of the county, and shall make diligent inquiry in the community, including inquiry of anyone in possession of all of such lands so traversed or so abutting as to the ownership thereof. In lieu of a petition signed by freeholders as aforesaid, the petition may be signed solely by a city, village or township when duly authorized by its governing body, or by any combination of such municipalities, if such petitioning municipality or municipalities will be liable to assessments at large for at least a percentage of the total amount to be assessed for the cost of the proposed drain. In the event of such a municipally signed petition, then the foregoing provisions of this section, other than the first 2 sentences thereof, shall not be applicable.

Sec. 78. (1) All citations, notices and orders relative to condemnation proceedings, unless otherwise provided, shall be served as follows:

(a) Personally; or

(b) By leaving a copy at the residence of the person or persons interested; or

(c) By mailing a copy thereof by registered mail at the last known post office address of each person or persons, so far as is known; and

(d) By publication in some newspaper printed or circulated in the county in which such lands are located at least 7 days prior to the date of hearing.

(2) Nonresidents of the county may be served in any of the above methods.

Sec. 81. (1) On the day fixed, the court shall enter the default of all persons interested in the property described who have not appeared, and shall direct the payment to such persons of the sums stated in the determination, as compensation for the taking the pieces or parcels of property in which they are interested only after necessity is determined under the provisions of section 81.

(2) The court commissioners shall meet at the time and place ordered by the court and shall be sworn faithfully to discharge their duties. If all do not then appear, a less number may adjourn to a time certain, but no adjournment shall be made to a day later than the time allowed by the court. All adjournments shall be publicly announced. The court may issue subpoenas to compel the attendance of witnesses before the court or before the court commissioners. Either of the court commissioners may administer oaths to witnesses.

(3) The court commissioners shall appraise the damages to be paid as compensation for each such piece or parcel of property, and shall report such decision in writing, signed by them or a majority of them, at or before the time fixed for that purpose, but it shall not be necessary for the court commissioners to report on all of the property at one time.

(4) It shall not be necessary for the board or commissioner to include in 1 determination the descriptions of all of the property necessary to be taken for any single project, or to include in 1 petition, the descriptions of all of the property described in the deter-

mination upon which the petition is based.

(5) At the time of the filing of the report or at such other time to which it may adjourn the proceedings, on cause shown, the court may set aside the report and refer it back to the court commissioners or appoint other commissioners to re-try the questions involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any determination, petition, affidavit, order, report

or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners, by reason of death, resignation, removal or inability to act; at any time, it may remove any or all of the commissioners and fill the vacancies thereby created; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may determine the division of any award among the several claimants thereto; it may adjourn the proceedings or any part thereof from time to time, and may make all orders in the premises as may be just and proper to further and accomplish the purpose thereof.

Sec. 87. Any certificate, report or determination authorized or required by this chapter, or the record thereof, or a certified copy of any certificate, report, determination or record, shall be prima facie evidence of the facts recited therein and of the title to the property therein described or referred to, and of the right of the drainage board or com-

missioner to take the same for drain purposes.

Sec. 88. Any proceeding taken under the provisions of this chapter shall be subject to review upon superintending control. The procedure therefor shall be the same as is required in case of certiorari to review judgments rendered by judges of the circuit courts. The application for superintending control must be filed within 20 days after the report of the special commissioners shall have been confirmed. The determination of necessity provided in this act may be reviewed by superintending control only within 10 days after

such determination of necessity, by the court of appeals.

Sec. 302. The revolving fund may be used for paying the engineer or surveyor for his services in laying out a drainage district, also any necessary assistance therefor and to pay any and all other services to the date of letting the drain contract for paying members of boards of determination for services performed under this act. for necessary repairs on old drains, and also for paying drain orders that are due not in excess of \$2,000.00 if authorized by the board of supervisors. Orders drawn by the commissioner on the revolving fund may be made payable upon the performance of services herein defined. From said revolving fund may be paid the services herein mentioned on any drain or drainage district affecting more than 1 county. Such total expense is prorated among the several counties affected according to the amount apportioned to be paid by and in said counties respectively for said drain. Any and all orders for services rendered or expenses incurred after the date of letting the drain contract shall be paid in the manner prescribed in chapter 10, being sections 241 to 248.

Sec. 433. An existing intracounty or intercounty drainage district may be enlarged and the drain located therein may be extended or have branches added to provide drainage service to lands not originally within the boundaries of the drainage district by agreement between the drain commissioner or the drainage board and the owner or developer of the lands. The agreement shall obligate the owner or developer of the lands to be added to the drainage district to construct, in accordance with plans and specifications prepared by or approved by the drain commissioner or drainage board, the necessary and adequate drainage facilities on the lands to be added and in the existing drainage district to connect the lands to the existing drain in the drainage district and to pay the cost of the drainage facilities including right of way, engineering, inspection, administration and legal expenses incurred by the drain commissioner or the drainage board, or, in lieu thereof, to deposit with the drain commissioner or drainage board, upon execution of the agreement, the estimated cost of such construction and expenses. Before any agreement is approved and executed on behalf of a drainage district by the drain commissioner or drainage board, there shall be obtained, at the expense of the owner or developer of the lands to be added, a certificate, from a registered professional engineer satisfactory to the drain commissioner or the drainage board, to the effect that the lands to be added naturally drain into the area served by the existing drain or that the existing drain is the only reasonably available outlet for the drainage from the lands to be added and that there is existing capacity in the existing drain to serve the lands to be added without detriment to or diminution of the drainage service provided or to be provided, in the foreseeable future, to the area in the existing drainage district. If the existing drain in the existing drainage district has been financed by the levy of drain special assessments on the lands in the drainage district and if the basis of special assessment as applied to the lands to be added to the drainage district would result in a drain special assessment on the lands to be added in an aggregate principal amount greater than the costs and expenses to be paid or incurred by the owner and developer of the lands for the new drain facilities at the time of entering into the agreement, then the owner or developer shall also pay the amount of the excess to the drainage district at the time of execution of the agreement. In addition thereto, the developer or owner of the added lands shall pay a pro rata equitable share of the cost of the original construction of the drain, if any. Lands added to any drainage district by agreement shall be liable from and after the date of agreement for all assessments thereafter levied for operation and maintenance of the drain, including the extension thereof pursuant to the agreement and such lands shall be a part of the drainage district for all other purposes and procedures set forth in this act. All drain facilities and all rights of way, easements or property in which the same are located, acquired or constructed pursuant to the agreement to add lands shall be dedicated to public use or conveyed or transferred to the drainage district and the drain facilities shall thereafter be a part of the drain the same as if originally located, established and constructed by procedures set forth in this act as a part of the original drain. An existing intracounty or intercounty drain may be extended or have branches added to provide additional service to lands within the drainage district by agreement between the drain commissioner or the drainage board and the owner or developer of the land, pursuant to the foregoing procedures and conditions set forth in this section. The affected public corporations or municipalities in which the proposed lands are to be added will be apprised of said agreement by the drain commissioner or drainage board and the public corporations or municipalities shall consent by appropriate resolution to the addition of the affected lands to the drainage district area.

Sec. 486. The terms of this chapter shall be applicable (1) to any county drain located, or proposed to be located, entirely within the limits of a single city, village or township, or (2) to any county drain located in more than 1 city, village or township but which serves or will serve only an area located entirely within the limits of a single city, village or township so that no other city, village or township will be subject to assessment to pay the cost thereof, if such city, village or township shall consent thereto by resolution adopted by its governing body. In such case any petition required to be filed hereunder shall be sufficient if signed by such city, village or township only.

This act is ordered to take immediate effect.

	Clerk of the House of Representatives.
	Secretary of the Senate.
	Secretary of the Senate.
pproved	***************************************
	Governor.

Act Mo. 183
Public data of 1967
Approved by Governor
June 30, 1967

STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Senators Volkema, Bouwsma, DeMaso, Bursley, Lockwood, Toepp and Schweigert

ENROLLED SENATE BILL No. 55

AN ACT to amend sections 1, 3, 4, 5, 6 and 7 of Act No. 257 of the Public Acts of 1952, entitled "An act to provide for the registration of certain boat liveries; to provide for the adoption of certain minimum safety standards; to provide for the inspection of such boat liveries and their equipment and watercraft, and for the issuance of certificates and passenger capacity tags by the sheriffs of the various counties; to provide for review of a denial of such certificate or finding of passenger capacity; to establish fees to finance such inspection; to define the duties of the Michigan state waterways commission concerning such boat liveries; and to prescribe penalties for violations of the provisions of this act," being sections 281.561, 281.563, 281.564, 281.565, 281.566 and 281.567 of the Compiled Laws of 1948; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 1, 3, 4, 5, 6 and 7 of Act No. 257 of the Public Acts of 1952, being sections 281,561, 281.563, 281.564, 281.565, 281.566 and 281.567 of the Compiled Laws of 1948, are amended to read as follows:

Sec. 1. As used in this act:

(a) "Boat livery" means and includes any person who shall hold out to the general public for rent or lease any watercraft for any period of time not in excess of 1 year, except any watercraft subject to inspection under the laws of the United States, however, this shall not apply to any person owning less than 3 boats.

(b) "Watercraft" means and includes any contrivance now known, or hereafter invented, used or designed for navigation on water, whether propelled by muscular power, sail, machinery, steam or electricity. "Vessel" is synonymous with "watercraft".

(c) "Commission" means the Michigan state waterways commission.

(d) "Person" means and includes any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, except the United States and the state of Michigan; and includes any agent, trustee, receiver, assignee or other similar representative thereof.

Sec. 3. The commission shall adopt minimum safety standards for watercraft and other equipment which are rented or leased to the public by boat liveries. Such standards shall be established to insure the safety and well-being of those persons utilizing the facilities of boat liveries. Such standards shall include methods for the determination of the maximum vessel load capacity of watercraft and the maximum horsepower of any

motor to be used to propel such watercraft and shall conform to recognized marine practices. Such standards shall be published and placed in operation in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948.

Sec. 4. (a) The sheriff of each county, or any peace officer duly authorized by such sheriff, shall annually inspect all equipment offered for lease or rent by all boat liveries located within the boundaries of his county, and shall determine whether said equipment complies with the minimum safety standards established pursuant to the provisions of the preceding section.

(b) If, after such inspection, it is found that all such equipment complies with the aforesaid standards, the sheriff, or his duly authorized representative, shall issue to the boat livery a certificate to be furnished by the commission. Such certificate shall be prominently displayed and shall expire on December 31 in the year for which it is issued.

(c) No such certificate shall be issued unless and until all watercraft offered for lease or rent to the public have been inspected and their maximum vessel load capacity and the maximum horsepower of any motor to be used to propel such watercraft determined in compliance with the minimum safety standards established pursuant to the provisions of the preceding section, and a metal tag indicating such maximum capacities shall have been affixed to such watercraft.

(d) Such certificates and maximum vessel load capacity tags shall be furnished to the sheriff of each county by the commission for a sum not exceeding the cost of such items.

Sec. 5. (a) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any equipment subject to the provisions of the preceding section without first obtaining such certificate shall be guilty of a misdemeanor.

(b) Any person operating a boat livery, leasing, renting or permitting the use, leasing or renting of any watercraft subject to the provisions of the preceding section without such maximum vessel load capacity tag being affixed thereto shall be guilty of a misdemeanor.

(c) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any watercraft, subject to the provisions of the preceding section, to more persons than stated on the maximum vessel load capacity tag shall be guilty of a misdemeanor.

(d) Any person who shall rent, lease or operate any watercraft from a boat livery and shall, without the knowledge of such boat livery, permit a number of persons in excess of the figure on the maximum vessel load capacity tag to use or occupy such watercraft at one time shall be guilty of a misdemeanor.

(e) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any watercraft subject to the provisions of the preceding section, which does not contain the equipment required by law or which is equipped with a motor with a horsepower rating in excess of the maximum horsepower designated on the capacity tag shall be guilty of a misdemeanor.

(f) Any person who shall rent, lease or operate any watercraft from a boat livery and shall, without the knowledge of such boat livery, permit the operation of such watercraft without equipment prescribed by law or with a motor with a horsepower rating in excess of the maximum horsepower designated on the capacity tag shall be guilty of a misdemeanor.

(g) Any person who shall remove a metal tag indicating the maximum capacity of a watercraft and attach the same to another watercraft which has a different maximum vessel load capacity than that indicated on the tag shall be guilty of a misdemeanor.

Sec. 6. (a) Any boat livery denied such certificate by the sheriff of any county, or his duly authorized representative, may petition the commission for review of such denial. Such review shall be held at the situs of the boat livery.

(b) Any boat livery may petition the commission for review of the determination by the sheriff of any county, or his duly authorized representative, of the maximum vessel load capacity of its watercraft and the maximum horsepower of any motor to be used to propel such watercraft.

(c) Any person considering himself or itself aggrieved by the decision of the commission under subdivisions (a) and (b) of this section, may, within 10 days after the determination thereof, appeal to, or have the action of the commission reviewed by the circuit court of the county in which the livery is located in the manner provided for the review of the orders of other administrative bodies of this state, and rules of law applicable to such appeals or reviews shall apply.

Sec. 7. Every boat livery shall pay a fee of \$1.00 to the sheriff making such investigation per each maximum vessel load capacity tag issued to the boat livery, which fee

shall be deposited in the county general fund.

Section 2. Section 9 of Act No. 257 of the Public Acts of 1952, being section 281.569 of the Compiled Laws of 1948, is repealed.

Section 3. This amendatory act shall become effective January 1, 1968.

		Secretary of the Senate.
		Clerk of the House of Representatives.
Approved		
	Governor.	

Act No. 26 Public Acts of 1957 Approval by Governor June 2, 1967

STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Reps. Baker and Snyder

ENROLLED HOUSE BILL No. 2631

AN ACT to amend section 8 of chapter 1 of Act No. 165 of the Public Acts of 1929, entitled as amended "An act to protect fish in all the waters over which this state has jurisdiction; to regulate the manner of taking, possession, transportation, size and sale of fish; to regulate the taking and sale of minnows, wigglers, sturgeon, and noxious fish in all waters over which this state has jurisdiction; to provide for the issuing of licenses and permits to take fish from all waters over which this state has jurisdiction and for the disposition of the funds derived therefrom; to define what shall be classed as inland waters; to regulate the manner and method of taking turtles; to provide penalties for the violation of the provisions of this act, and to repeal certain acts relating thereto." as amended by Act No. 151 of the Public Acts of 1964, being section 301.8 of the Compiled Laws of 1948.

The People of the State of Michigan enact:

Section 1. Section 8 of chapter 1 of Act No. 165 of the Public Acts of 1929, as amended by Act No. 151 of the Public Acts of 1964, being section 301.8 of the Compiled Laws of 1948, is amended to read as follows:

CHAPTER 1

Sec. 8. A trout stream within the terms of this act shall be construed to mean any stream or portion of any stream which contains a significant population of any species of trout or salmon as determined by the director of conservation. The director of conservation

(11)

may designate not more than 100 miles of tr as he prescribes may be used in fishing and which may be taken therefrom.	out streams wherein only such lures or baits may prescribe the size and number of fish
	Clerk of the House of Representatives.
	Secretary of the Senate.
Approved	
Governor	1

Act No. 98
Public Acts of 1967
Approved by Governor
June 21, 1967

74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Reps. Thomas J. Anderson, Mahalak, Petitpren, Sheridan, Baker and Copeland

ENROLLED HOUSE BILL No. 2771

AN ACT to amend section 6 of Act No. 61 of the Public Acts of 1939, entitled as amended "An act to provide for a supervisor of wells: to prescribe his powers and duties; to provide for an advisory board and an appeal board; to prescribe their powers and duties; to provide for the prevention of waste and for the control over certain matters, persons and things relating to the conservation of oil and gas, and for the making and promulgation of rules, regulations and orders relative thereto; to provide for the plugging of wells and for the entry on private property for that purpose; to provide for the enforcement of such rules, regulations and orders and of the provisions of this act, and to provide penalties for the violations thereof; and to provide for the assessment and collection of certain fees," as amended by Act No. 131 of the Public Acts of 1961, being section 319.6 of the Compiled Laws of 1948.

The People of the State of Michigan enact:

Section 1. Section 6 of Act No. 61 of the Public Acts of 1939, as amended by Act No. 131 of the Public Acts of 1961, being section 319.6 of the Compiled Laws of 1948, is amended to read as follows:

Sec. 6. The supervisor shall prevent the waste prohibited by this act. To that end, acting directly or through his authorized representatives, the supervisor, after consulting with the board, is specifically empowered:

(60)

(a) To make and enforce rules and regulations subject to the approval of the commission, issue orders and instructions necessary to enforce such rules and regulations, and to do whatever may be necessary with respect to the subject matter stated herein to carry out the purposes of this act, whether or not indicated, specified, or enumerated in this or any other section hereof.

(b) To collect data to make inspections, studies, and investigations, to examine such properties, leases, papers, books and records as are necessary to the purposes of this act; to examine, check, and test and gauge oil and gas wells and tanks, plants, refineries, and all means and modes of transportation and equipment, to hold hearings, to provide for the keeping of records and making of reports, and for the checking of the accuracy thereof.

- (c) To require the locating, drilling, deepening, redrilling or reopening, casing, sealing, operating and plugging of wells drilled for oil and gas or for geological information or as key wells in secondary recovery projects, or wells for the disposal of salt water, brine or other oil field wastes, to be done in such manner and by such means as to prevent the escape of oil or gas out of 1 stratum into another, or of water or brines into oil or gas strata; to prevent pollution, damage to or destruction of fresh water supplies including inland lakes and streams and the Great Lakes and connecting waters, and valuable brines by oil, gas or other waters, to prevent the escape of oil, gas or water into workable coal or other mineral deposits; to require the disposal of salt water and brines and oily wastes produced incidental to oil and gas operations, in such manner and by such methods and means that no unnecessary damage or danger to or destruction of surface or underground resources, to neighboring properties or rights, or to life, shall result. Any such well may be plugged to a fresh water level and not to the surface in case such well is desired to be used as a water well.
- (d) To require reports and maps showing locations of all oil and gas wells, the keeping and filing of logs, well samples, and drilling and operating records or reports. All well data and samples furnished the supervisor shall, upon request of owner of well, be held confidential for 90 days after the completion of a well and not open to public inspection except by written consent of the owner. No producer shall be required to submit or file logs or reports of core or test wells drilled for geological purposes only, nor required to furnish well samples of such core or test wells.

(e) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas, or both oil and gas, in paying quantities, and to prevent the premature and irregular encroachment of water, or any other kind of water encroachment, which reduces or tends to reduce the total ultimate recovery of oil or gas, or both such oil or gas, from any pool.

(f) To prevent fires or explosions.

(g) To prevent "blow-outs", "seepage", and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil business.

(h) To regulate the "shooting" and chemical treatment of wells.

- (i) To regulate the secondary recovery methods of oil and gas, including the pulling or creating a vacuum, the introduction of gas, air, water and other substances into the producing formations.
 - (j) To fix the spacing of wells.

(k) To require the operation of wells with efficient gas-oil ratios and to fix such ratios

- (1) To require by written notice immediate suspension of any operation or practice and the prompt correction of any condition found to exist which is causing or resulting or threatening to cause or result in waste.
- (m) To require either generally, or in, or from, particular areas, certificates of clearance or tenders in connection with the transportation of oil, gas or any product thereof.
 - (n) To identify the ownership of oil and gas producing leases, properties, and wells.
- (o) To make rules, regulations or orders for the classifications of wells as oil wells or dry natural gas wells; or wells drilled, or to be drilled, for geological information, or as key wells for secondary recovery projects, or wells for the disposal of salt water, brine or other oil field wastes, or wells for the storage of dry natural gas or casinghead gas,

or wells for the development of reservoirs for the storage of liquid petroleum gas.

(p) To require surety bonds of owners, producers, operators, or their authorized representatives in such reasonable form, condition, term and amount as will insure compliance with this act and with the rules, regulations or orders issued thereunder.

Clerk of the House of Representatives.

Secretary of the Senate.

Governor.

74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Senators Richardson, Bursley, Stamm and Youngblood

ENROLLED SENATE BILL No. 222

AN ACT to provide for the establishment of irrigation districts in counties of 400,000 population or less; to provide for irrigation boards; to provide for irrigation projects in such districts; to provide for the assessment and collection of taxes of such districts; to provide for the issuance of bonds or irrigation orders by such districts and to provide for maintenance assessments in such districts; to prescribe the duties of various officials in such irrigation districts and authorize cooperation at various governmental agencies and their officers with such districts.

The People of the State of Michigan enact:

Sec. 1. This act shall be applicable in counties of 400,000 population or less to the use of water from the Great Lakes only, which for the purposes of this act shall include such portions of the lakes and streams tributary thereto where the natural water levels are controlled by and at essentially the same water level as the Great Lake involved.

Water shall not be withdrawn from the Great Lakes if it is being used within the confines of an irrigation district under the provisions of this act which cannot reasonably be expected to benefit agricultural crops or other agricultural operations for improvement of the food supply and water shall not be withdrawn from the Great Lakes under the provisions of this act at any place or at any time or in any amount or amounts for a single irrigation district or for the sum of all irrigation districts and water from the Great Lakes shall not be stored or transmitted by or for any irrigation district, herein authorized to be created, in any manner or by any means or with the aid of any dam or other device which:

- Will materially injure other users of the waters of the Great Lakes and connecting channels; or
- (2) Will significantly affect the levels of the Great Lakes and prejudice the state in its relations with other states bordering on the Great Lakes; or
- (3) Will adversely affect the state in its development and maintenance of fish and wildlife resources; or
 - (4) Will be detrimental to the health and welfare of the people of the state.

The water resources commission shall enforce and carry out the conditions and limitations of this section in performing all duties placed upon it by the terms of this act and for this purpose the water resources commission is authorized to call upon any officer, board, department, school, university or other state institution and the officers or employees thereof for any assistance deemed necessary to the carrying out of this act.

Sec. 2. The provisions of this act shall be liberally construed to promote the public

(93)

welfare by irrigating lands, improving the existing water supply for the lands or providing new means or methods of water supply, or constructing and completing dams, reservoirs, canals, drains, structures, mechanical devices, levee, dyke, barriers and the use of any pumping equipment, pipelines or other works or a combination of any or all of the same specified in the petition to be utilized for the preservation or operation of any irrigation system constructed, or proposed to be constructed for the purpose of irrigation.

Sec. 3. Nothing in this act shall be construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but the districts are subject to the provisions of this act so far as practicable; nor shall it affect, impair or discharge any contract, obligations, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued; nor shall it affect any action which now may be pending.

Sec. 4. Any irrigation district heretofore or hereafter established is a body corporate with power to contract, to sue and to be sued, and to hold, manage and dispose of real and personal property, in addition to any other powers conferred upon it by law, and shall continue in existence until such time as the same shall be dissolved by operation of law. In addition each established irrigation district may adopt and use a corporate seal, acquire the right to use of water for irrigation purposes, under plans approved by the water resources commission, acquire sites for reservoirs, and rights of way for drains, canals and laterals, exercise the right of condemnation pursuant to the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or under the applicable provisions of sections 75 to 84 of Act No. 40 of the Public Acts of 1956, as amended, being sections 280.75 to 280.84 of the Compiled Laws of 1948, and shall be deemed to be a "state agency" as the term is used in said act.

Sec. 5. The irrigation district may contract with the federal government, which term as used in this section shall mean the United States and shall include any and all agencies of the United States, whereby the federal government will pay the whole or part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The irrigation district may also contract with the state or any agency thereof or with any person, private corporation or with any public corporation in respect to any matter connected with the construction, operation or maintenance of any irrigation works or for the improvement or providing new means of water supply or the improvement of the existing water supply for the lands within the irrigation district. All contracts and agreements executed under the provisions of this section shall be subject to the approval of the water resources commission. No such contracts or agreements or anything in consequence thereof shall in any manner infringe upon or invade the state's public trust in its waters.

Sec. 6. Subject to the written assignment, consent and approval of the drain commissioner administering a county drainage district or the written assignment, consent and approval of the drainage board of an intercounty drainage district, the county drain commissioner and the drainage board of intercounty drainage districts may grant unto the United States or to any irrigation district the right to use all the easements and rights of way conveyed to their respective drainage district or to any county lying wholly or in part in such districts for the construction, use and maintenance of any county or intercounty drain by the United States or any irrigation district in connection with any irrigation project undertaken by the irrigation district, solely or in cooperation with the United States or any other federal department or agency. Private rights of persons acquired by reason of the establishment and construction of the drain or part thereof shall not be interfered with or in any way impaired by the use of the drain for irrigation purposes within the scope of this act.

Sec. 7. No dams for irrigation purposes shall be constructed unless the same shall have been approved in a manner provided by law.

Sec. 8. Any irrigation district may apply for and accept grants or any aid which the United States government or any agency thereof or the state or any of its political subdivisions or any private person, corporation or trust may authorize to be made or given in aid of any irrigation project.

Sec. 9. (1) Whenever a majority of freeholders owning lands in any proposed irrigation district who represent 1/3 or more of the area of lands within the district or whenever freeholders owning lands who represent more than 1/2 the area of lands within the district desire to provide for the irrigation of the same, or to improve the existing water supply for the lands or provide a new water supply system for said lands; or to purchase, extend, operate, or maintain constructed irrigation works; or to cooperate with the United States for the assumption as principal or guarantor of indebtedness to the United States on account of district lands, they may file in the office of the county drain commissioner of the county which embraces the largest acreage of the district a petition, hereinafter referred to as the "petition" which shall include:

(a) The name of the proposed irrigation district.

(b) The necessity of the proposed work describing the necessity.

(c) The object and purpose of the system proposed to be constructed, together with

a general description thereof.

(d) A general description of the lands proposed to be included in the district, accompanying the petition shall be a preliminary engineering report on the feasibility of the project, including a report on the sufficiency of its water supply; the approximate area of irrigable land within the district, including an estimate of the cost of construction.

(e) The names of all freeholders owning lands in said proposed district when known.

(f) Whether or not the petitioners desire and propose to cooperate with the United States.

(g) A general plea for the organization of the district.

(2) The petitions for the organization of the same district may be circulated, and may be filed in more than one counterpart, and when filed, shall together be regarded as a single petition having as many signers as there are separate signers on the several petitions filed. All petitions for the organization of the district filed prior to the hearing on the petition shall be considered by the irrigation board, the same as if filed with the first petition placed on file, and the signatures thereon contained shall be counted in determining whether sufficient persons have signed the petition.

Sec. 10. The affidavit of 1 or more of the signers of the petition stating that they have examined it and are acquainted with the locality of the district and that the petition is signed by a sufficient number of persons or corporations owning lands in the district may be taken by the irrigation board as sufficient evidence of the facts therein stated.

Sec. 11. The lands proposed to be included in any irrigation district need not be contiguous if the benefit of the proposed work in each part will exceed the costs of the proposed work in each part; and lands within any city, village or township may be included within the limits of any irrigation district if the creation of the irrigation district will benefit the lands within the city, village or township in any amount equal to or in excess of the amount of assessment for construction against the lands therein.

Sec. 12. There is created for each irrigation district petitioned for under the provision of this act an irrigation board to consist of the drain commissioner of each county involved in the project in which the lands of the proposed irrigation district are located, the director of the department of agriculture and the chairman of directors of each soil conservation district involved in the project, in which the lands of the proposed irrigation district are located. The director of the department of agriculture is authorized to designate a representative from his department and the chairman of directors of each soil conservation district is authorized to designate a representative from the directors of said soil conservation district to serve in their stead as members of the irrigation board. The county drain commissioner of the county in which are contained the largest amount of irrigation district lands shall serve as chairman of the irrigation board. He shall keep minutes of the proceedings of the irrigation board and all records and files of the board

shall be kept in his office. All members of the irrigation board shall be known as commissioners of irrigation. Commissioners of irrigation districts are public officers. The presumption shall be in favor of the regularity and validity of all their official acts. Whenever any report of the commissioners of any irrigation district or any part or action is contested the burden of proof shall rest upon the contestant.

Sec. 13. Before entering upon their duties, commissioners shall take and subscribe the constitutional oath of office. The commissioners shall make a true account of their

activities to the water resources commission at least once annually.

Sec. 14. The water resources commission shall maintain superintending control over withdrawals and operations of each irrigation district formed under the provisions of this act and is authorized to promulgate rules and regulations to carry out this authority in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

The commission is further authorized to enforce the limitations and conditions of section 1 by order prohibiting the further withdrawal of water or by taking such other action as is authorized by this or any other act or law. Each irrigation district shall reimburse the water resources commission for any reasonable and necessary expense incurred by the commission in maintaining superintending control over that district.

Sec. 15. Meetings of the irrigation board may be called by the chairman or any 2 members thereof, upon notice sent by certified mail to each member, setting forth the time and place thereof, which notice shall be mailed not less than 5 days previous to the time of the meeting. The affidavit of the chairman as to such mailing shall be conclusive proof thereof. No notice of any meeting shall be required if all members are present. Any member of the board may waive notice of any meeting, either before or after such meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by the board except by a majority vote of its members. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of the hearing. All orders issued by the irrigation board shall be signed by the chairman.

Sec. 16. (1) Upon receipt of a petition for the establishment of an irrigation district, the county drain commissioner shall call the first meeting of the irrigation board. A copy of such petition and duplicates of all maps and other papers filed with the same shall be filed in the office of the water resources commission at least 4 weeks before the date set for the public hearing on the petition. The water resources commission shall examine the petition, maps and other papers and, if it deems it necessary, examine the proposed district, the irrigation works proposed to be constructed or the location of the irrigation works to be constructed, and prepare a report covering those features of the proposed irrigation project as relate to the provisions of section 1 and such other matters as the water resources commission deems advisable and shall submit the same to the irrigation board at the meeting set for the hearing of the petition. All reasonable and necessary expenses incurred by the water resources commission in making the report shall be paid for by the

persons signing the peition.

(2) Any additional compensation for services rendered on behalf of an irrigation district by members of the irrigation board in addition to official duties of the members shall be provided by the respective governmental agencies from whom the original com-

pensation for other various duties and services rendered are received.

Sec. 17. The irrigation board at its first meeting shall consider the petition for the project and make a tentative determination as to the sufficiency thereof and the practicability of the proposed irrigation project, and shall also make a tentative determination of the area to be assessed. The irrigation board shall give a name to the project and to the irrigation district. After the irrigation board has made the determination specified in the first sentence of this section, it shall fix a time and place when and where it will meet to hear any objections to the proposed irrigation project and the petition therefor, and to

the matter of assessing the cost of such irrigation project in the affected lands. Notice of the hearing shall be published twice in the county by inserting the same in at least 1 newspaper published therein, designated by the irrigation board, with the first publication to be not less than 20 days prior to the time of hearing. Notice of the hearing shall be given to all property owners in the assessment district pursuant to Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.745 of the Compiled Laws of 1948. The irrigation board may provide a form to be substantially followed in the giving of the notice. At the hearing, the water resources commission shall submit its report on the petition and any taxpayer in the irrigation district shall be entitled to be heard. After the hearing, the irrigation board shall make a determination as to the sufficiency of the petition, the practicability of the irrigation project, whether the irrigation project should be constructed, and if so, it shall issue its order accordingly, which order shall be known as the "final order of determination". No final order of determination establishing an irrigation district shall be issued by the irrigation board until the board has been served with an order by the water resources commission that in its opinion the proposed irrigation by the proposed irrigation district, as set forth in the petition, supporting papers and examinations specified in section 16, is feasible and within the purpose of the act and can be constructed and operated in such a manner as should not, in its opinion, violate the conditions and limitations of section 1. If the water resources commission by its order determines that the proposed irrigation district cannot be established without violating one or more of the conditions and limitations of section 1 of this act, its order shall be final and no further action for the formation of the proposed irrigation district shall be taken by the irrigation board. No lands in the irrigation district may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice, as above provided. The irrigation district shall be deemed to be legally established after entry of the final order of determination.

- Sec. 18. The irrigation board shall proceed to secure from a competent engineer, plans and specifications and an estimate of cost of the proposed irrigation project which, when adopted by the board, shall be filed with the chairman.
- Sec. 19. The commissioners shall not be confined to the points of location, commencement, routes or termini of the drains, reservoirs, dams, canals, ditches, pump, or other work, or the number, extent or size of the same, as proposed by the petitioners, but shall locate, design, lay out and plan the same in such manner as to them shall seem best to promote the public welfare and to benefit the lands of the parties interested with the least damage and greatest benefit to all lands affected thereby. All alterations or deviations in the design plans of the irrigation works shall have the final approval of the water resources commission.
- Sec. 20. The irrigation board shall proceed to secure the necessary lands or rights of way necessary for the irrigation project. If the same cannot be secured by negotiation then the irrigation board may proceed under the provision of section 4.
- Sec. 21. The irrigation board shall advertise for bids for construction of the improvements requested in the petition. The contract shall be let to the lowest bidder in accordance with the statutory provisions applicable to award of public contracts and the irrigation board shall have the right to reject any and all bids and readvertise the same.
- Sec. 22. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after the appeal has been decided the chairman of the irrigation board shall make a computation of cost of a project under this act, which shall include all preliminary costs, the cost of construction of the improvement, establishment of the special assessment district, the preparation of the tax roll, notices, advertising, printing, financing, legal, professional, engineering, inspection, condemnation expenses, interest on the bonds for the first year if bonds are to be issued and an amount not to exceed 10% of the gross sum to cover contingent expenses, and all other administrative costs incidental to making of the improvement or establishment of the irrigation special assessment district. The chairman shall submit the computation of costs to the irrigation board for its approval

and when approved by the board or amended and approved by the board, it shall become the final computation of cost for the irrigation district.

Sec. 23. The chairman of the irrigation board, under the direction of the board, shall make out an assessment roll, entering and describing therein all the lots, premises and parcels of land to be assessed, including therein all lands benefited by the construction of the irrigation improvement. The assessments shall be based upon benefits to be derived from the proposed irrigation improvement. The irrigation board shall tentatively establish the percentage of the cost of the irrigation improvement which is to be borne by each of the parcels of land assessed on the special assessment roll. After the tentative apportionments and assessment roll is made the irrigation board shall set a time and place when and where they will meet and hear any objections to the roll.

Sec. 24. Notice of hearing shall be given pursuant to Act No. 162 of the Public Acts of 1962 and also by publication for at least 2 insertions in some newspaper published and of general circulation in the county, the first publication to be at least 20 days prior to the time of the hearing. The irrigation board shall provide a form to be substantially

followed in giving of the notice.

Sec. 25. At the hearing the irrigation board shall hear the proofs and allegations of all parties interested, and shall carefully reconsider and review the description of land comprised within the irrigation improvement special assessment district, the several descriptions and apportionment of benefits, and define and equalize the same as may seem just and equitable.

Sec. 26. After the hearing the irrigation board shall enter its final order of apportionment and order of confirmation of the roll and shall make an indorsement upon the roll showing the date of confirmation and when the amount to be raised is to be payable. If the amount is to be payable in more than 1 installment, they shall enter thereon a memorandum of the installments thereof and of the years when the installments shall be spread and shall add a certificate in writing of the determination whether the taxes assessed for benefits shall be paid in 1 or more years. The special assessment rolls shall be dated and signed by the irrigation board and filed on or before the last Wednesday in September in each year in the office of the county clerk of the counties involved. When any improvement special assessment roll is confirmed by the irrigation board it shall be final and conclusive.

Sec. 27. From the date of confirmation of the special assessment roll thereof, all irrigation special assessments shall constitute a lien upon the respective lots or parcels assessed, and when assessed, shall be charged against the person to whom assessed until paid.

Sec. 28. The chairman of the irrigation board at the direction of the irrigation board shall prepare a tax assessment roll in each year for the collection of taxes for the current year and shall certify it to the county clerk on or before the first day of the annual meeting of the board of supervisors. In each roll he shall add, to the amount to be collected. interest on all unpaid installments to the date of tax collection. To the roll for the last year he shall add such further amount, if any, as may be necessary together with outstanding uncollected taxes, to pay all outstanding bonds and interest thereon to maturity. If the roll is made payable in more than 1 installment, a permanent assessment roll may be maintained in the office of the county treasurer, subject to the direction of the board of county auditors, in counties having such a board, and of the board of supervisors in other counties, showing the total cost, the number of installments and the amount of each annual assessment, together with interest charges thereon, which shall be carried in a separate column. If the roll is made payable in more than 1 installment, and the total amount of any assessment is \$10.00 or less, exclusive of interest, then the assessment shall be payable in 1 installment; but if the assessment exceeds \$10.00 and is made payable in more than 1 installment, then no installment, exclusive of interest, shall be less than \$10.00, excepting the final installment, which shall be payable in the amount of the actual balance.

Sec. 29. The board of supervisors of the counties involved shall order the spread of all irrigation special assessments on the local tax rolls by the local tax assessing officials

pursuant to sections 36 to 38 of Act No. 206 of the Public Acts of 1893, as amended, being sections 211.36 to 211.38 of the Compiled Laws of 1948.

Sec. 30. The supervisor, village or city assessor shall spread on his roll the total amount of all irrigation special assessment taxes determined upon by the irrigation board and approved by the board of supervisors to be assessed upon the county, township, city or village tax roll for the year in which the same was assessed and extending the tax in the same column with the general county, township, city or village tax. In villages or cities where the municipal taxes therefor are assessed and collected prior to the October meeting of the board of supervisors, all taxes ordered to be spread against such municipalities shall be spread during the calendar year following the action by the board of supervisors. The supervisor, assessor, or tax levying official shall spread upon the roll, separately, and immediately following the other descriptions, all tracts or parcels of land specified by the irrigation board to be assessed for benefits, and shall place opposite each description, in a column marked "(giving the name or number) special assessment taxes", the amount of taxes apportioned thereon, as certified to him

by the county clerk.

Sec. 31. All irrigation special assessment taxes assessed under the provisions of this act shall be subject to the same interest and charges, and shall be collected in the same manner as state and other general taxes are collected, and collecting officers are vested with the same power and authority in the collection of such taxes as are or may be conferred by law for collecting general taxes. Irrigation special assessment taxes when collected, shall be returned to the county treasurer to be disbursed by him. Where suit is brought against the collector arising out of the collection of any irrigation special assessment tax, the county shall defend the officer in the same manner that he has now the right to be defended in the collection of general taxes. No suit shall be instituted to recover any special assessment tax or money paid or property sold therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or sale of such property by, the collecting officer; and if the tax is paid under protest the reasons therefor shall be specified, and the same procedure observed as is required by the general tax law. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be and remain a perpetual lien upon the lands upon which they are assesed, and a personal claim against the owner of the lands until they are paid. If the taxes levied by the special assessment irrigation district are not collected by the treasurer of a participating municipality, they shall be returned by him, together with the lands upon which they were levied, to the county treasurer in the same return, at the same time, and in the same manner, in every respect, naming in each case the particular irrigation district, as lands are returned for state, county and township taxes, and the taxes shall follow the lands, the same as all other taxes, and all the general provisions of law for enforcing the payment of township, county and state taxes, shall apply to irrigation special assessment taxes, and to the lands returned delinquent therefor, in the same manner and with like effect.

Sec. 32. If the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the irrigation board shall make additional pro rata assessments to supply the deficiency but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement.

Sec. 33. Whenever, in the opinion of the irrigation board, any special assessment is invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction adjudges an assessment illegal, the irrigation board, whether the improvement has been made or not, whether any part of the assessment has been paid or not, may proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment. Whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

Sec. 34. The irrigation board of each special assessment district may issue irrigation orders for the payment of all charges reflected by the computation of costs upon the irrigation fund of each particular district. In no case shall irrigation taxes be assessed for benefits received which are to be paid by irrigation orders in excess of 10 annual installments. All irrigation orders for the payment for easements or rights of way shall be paid out of the first year's taxes and the balance of such first year's taxes shall be applied toward payment of the irrigation construction contracts. For the balance due upon such contracts the irrigation board shall draw irrigation orders payable out of each succeeding year's assessment. No irrigation board shall draw orders payable in any one year for a larger amount than 90% of that year's assessment. Irrigation orders shall be ordered to be paid by the irrigation board only after a certification by the treasurer of the irrigation district that there are sufficient funds in the irrigation district fund to pay the order. The county treasurer of the counties involved in irrigation districts shall keep a record of all receipts and disbursements of all irrigation districts in their respective counties.

Sec. 35. The board of supervisors of the county involved by a resolution adopted by 2/3 vote of its members elect may pledge the full faith and credit of the county for the prompt payment of the interest on the bonds or evidences of indebtedness issued by the

respective irrigation districts pursuant to the provisions of this act.

Sec. 36. (1) The irrigation board shall be responsible for the operation and main-

tenance of the properties of the irrigation district.

(2) The irrigation board may fix and collect water charges to cover the cost of the operation and maintenance of any physical structures and any administrative expenses of the district in connection with the transportation impoundment and utilization of water for irrigation purposes. Such charges shall be approved by the majority vote of the irrigation board. The charges shall be made to each user of water.

Charges for water services furnished to any user or to any landowner shall be a lien on the affected land from the date such charges are due and any charges delinquent for 6 months or more shall be certified annually to the proper tax assessing officer or agency who shall enter the same upon the next tax roll against the premises to which such services shall have been rendered and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement of the lien therefor. The time and manner of certification and the other details in respect to the collection of such charges and the enforcement of such lien shall be prescribed by the irrigation board in cooperation with the governing bodies of the public corporations in which the lands are located. In lieu of or in addition to levying water charges for the operation and maintenance of the properties of the irrigation district, the irrigation board, under the same conditions and for the same purpose, may exact connection, readiness to serve, availability or service charges to be paid by the users, or owners of land utilizing irrigation water for irrigation purposes.

(3) Any future necessary expenses incurred in administration and operation of the district and its properties may be assessed at least once every 3 years on the basis of benefits derived after notice of the hearing on such maintenance assessment roll shall be given in

accordance with Act No. 162 of the Public Acts of 1962.

Sec. 37. Neither the final order of determination nor the order of apportionment of benefits or order confirming the special assessment roll shall be subject to attack in any court except by proceedings by writ of superintending control brought within 20 days after the filing of the order in the office of the chairman of the irrigation board issuing it. If no proceeding is brought within the time prescribed, the irrigation special assessment district and project shall be deemed to have been legally established and the legality of the irrigation special assessment district and project and the assessments therefor shall not thereafter be questioned in any suit at law or in equity.

Sec. 38. The irrigation board may by the adoption of an appropriate order provide for the suspension of water delivery to any land in the district upon which the irrigation

taxes levied and assessed thereon shall remain due and unpaid for 2 years. The irrigation board shall make all arrangements for right of way for laterals from the main drain or canal to each tract of land subject to assessment, and when necessary the board shall condemn to procure right of way for laterals and make such rules in regard to the payment for the right of way as it may deem just and equitable.

Sec. 39. The irrigation board shall manage and conduct the business affairs of the district, make and execute all necessary contracts, employ such agents, officers and employees as may be required and prescribe their duties, establish equitable orders, rules and regulations for the distribution and use of water among owners of such lands, and generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. The orders, rules and regulations with respect to the irrigation district shall be printed in convenient form for distribution to the freeholders in the irrigation district.

Sec. 40. The irrigation board, its agents and employees shall have the right to enter upon any land within the district to make surveys, and may locate the line of any drain or canal and the necessary branches of such location. The irrigation board may acquire, either by purchase or condemnation, all lands and other property necessary for the construction, use, maintenance, repair and improvement of any canal, drain or drains, and lands for reservoirs or dams, for the storage of water and all necessary appurtenances thereto. The board may acquire by purchase or condemnation any irrigation works, dams, drains, canals, pumping equipment, pump or reservoirs for the use of the district. The irrigation board may construct the necessary dams, reservoirs and works for the storage or transfer of Great Lakes water for the district, and do any lawful act necessary to be done that water may be furnished each landowner in the district for irrigation purposes.

Sec. 41. Any public or private corporation, firm or individual may advance moneys for the payment of any part of the cost of a project and shall be reimbursed by the irrigation special assessment district, with or without interest as may be agreed, when funds are available therefor. The obligation of the irrigation special assessment district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the irrigation special assessment district and may be made payable out of the assessments made against properties in the irrigation special assessment district or out of the proceeds of bonds issued by the irrigation special assessment district pursuant to this act or out of any other available funds, but the contract or note shall be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

Sec. 42. The county treasurers of the counties in which the irrigation district is located shall carry all accounts and items pertaining thereto as a seperate account upon the books of their office. A record shall be kept of the amount of money paid from the irrigation district funds for the use and benefit of any irrigation district and upon payment to the county treasurer of taxes assessed by the irrigation district, the county treasurer shall pay for the outstanding interest on bonds issued out of the taxes received or shall transfer the excess of funds to the irrigation district fund for the use and benefit of the irrigation district.

Sec. 43. The irrigation district funds shall be deposited by the county treasurer in a bank of the county in accordance with the general laws of this state and interest so received shall belong to the irrigation district fund. Money collected or appropriated for an individual irrigation special assessment district fund shall be used solely for the use and benefit of the irrigation district for which it was raised or received.

Sec. 44. The county treasurer shall be the custodian of the funds of the irrigation district. He may designate 1 or more of his deputies who may act for him in the performance of any of his duties under this section. The irrigation board may require the county treasurer and any deputy county treasurer, so designated, to furnish a bond payable to the irrigation district, in addition to any bond payable to the county, conditioned upon the faithful discharge of his duties in respect to moneys belonging to the irrigation district, the premium thereon to be paid by the irrigation district. Moneys held by the treasurer

shall be paid out only upon order of the irrigation board, except that no such order shall be required for the payment of principal and interest on bonds.

Sec. 45. The county board of supervisors in which any irrigation district is proposed to be formed may provide for an appropriation to create a revolving fund to pay for the preliminary costs of irrigation improvement projects within the county. The preliminary costs shall be assessed to the property owners in the assessment district by the irrigation board after notice of the hearing is given pursuant to Act No. 162 of the Public Acts of 1962, and shall be repaid to the fund where the project is not finally constructed. It shall be repaid to the fund when a project is constructed out of the first bond proceeds, taxes or assessments received.

Sec. 46. The irrigation board may borrow money and issue the bonds of the special assessment district therefor in anticipation of the collection of special assessments to defray the cost of any improvement made under this act after the special assessment roll has been confirmed. The bonds shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued and shall bear interest at a rate not exceeding 6% per annum. Collections on special assessments to the extent pledged for the payment of bonds shall be set aside in a special fund for the payment of the bonds. The issuance of special assessment bonds shall be governed by the provisions of the general laws of the state applicable thereto and in accordance with Act No. 202 of the Public Acts of 1943, as amended. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements but no special assessment district shall be compelled to pay the obligation of any other special assessment district.

This act is ordered to take immediate effect.

	Secretary of the Senate
	Clerk of the House of Representatives
proved	
	Governor.

Act No. 77
Public Acts of 1967
Approved by Governor
June 21, 1967

74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Senators Beebe, Kuhn, Stamm, O'Brien and Dzendzel

ENROLLED SENATE BILL No. 118

AN ACT to amend the title and sections 1, 2, 3, 4, 5 and 6 of Act No. 243 of the Public Acts of 1951, entitled "An act to prevent the spread of infectious and contagious diseases; to require persons engaged in servicing and cleaning of septic tanks, seepage pits or cesspools to be licensed and bonded by the commissioner of health; to provide for the inspection and licensing of vehicles; to provide for the control of dumping of wastes; and to provide penalties for the violation of this act," sections 1, 3 and 4 as amended by Act No. 42 of the Public Acts of 1957, being sections 325,281, 325,282, 325,283, 325,284, 325,285 and 325,286 of the Compiled Laws of 1948.

The People of the State of Michigan enact:

Section 1. The title and sections 1, 2, 3, 4, 5 and 6 of Act No. 243 of the Public Acts of 1951, sections 1, 3 and 4 as amended by Act No. 42 of the Public Acts of 1957, being sections 325,281, 325,282, 325,283, 325,284, 325,285 and 325,286 of the Compiled Laws of 1948, are amended to read as follows:

TITLE

An act to prevent the spread of infectious and contagious diseases; to require persons engaged in servicing and cleaning of septic tanks, seepage pits or cesspools to be licensed and bonded by the commissioner of health; to require solicitors who act on behalf of such

persons to be licensed; to provide for the inspection and licensing of vehicles; to provide for the control of dumping of wastes; and to provide penalties for the violation of this act.

Sec. 1. As used in this act:

(a) "Commissioner" means the director of public health. The initials "M.D.H." mean the state department of public health.

(b) "Tank" means any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool or seepage pit.

(c) "Septic tank" means a septic toilet, chemical closet and any other water tight enclosure used for storage and decomposition of human excrement and domestic wastes.

(d) "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank.

(e) "Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil.

(f) "Servicing" and "maintaining" means cleaning and removing wastes from the septic tank, seepage pit or cesspool, and recovering the same as before being exposed for cleaning.

(g) "Person" means any individual, partnership, firm, association, corporation or person carrying on a business under an assumed name.

(h) "Resident" means any person who has actually resided in the state for the 6 consecutive months immediately preceding date of application for license. Ownership of property in state is not qualification for residency.

(i) "Solicitor" means all persons who procure or solicit directly or indirectly customers for the services of a person who engages in or carries on a business of servicing or main-

taining, septic tanks, seepage pits or cesspools.

Sec. 2. No person shall engage in or carry on the business of servicing or maintaining septic tanks, seepage pits or cesspools within the state or act as a solicitor for such business unless duly licensed. Any person who engages in or carries on the business shall be bonded as provided in this act.

Sec. 3. Each person engaged in the business shall file an application directly with the commissioner, or through his authorized representatives in city, county or district health departments, to be forwarded to the commissioner with such information as he may require. The application shall state the nature of the business, the post office address of the applicant, and the post office address at or from which the business is to be continued. If the applicant shall operate a branch or other places of business, the application shall so state. The application shall state any additional information as the commissioner may require. The application shall be accompanied by a license fee of \$25.00, payable to the state of Michigan, and if the commissioner, after such investigation as he deems necessary, is satisfied that the applicant has the qualifications, experience, reputation and equipment to perform the services in a manner not detrimental to public health, he shall issue a license for the business. The application shall be made to the commissioner prior to March 1 of each year, and shall be accompanied by a surety bond covering the period for which the license shall be issued by a surety company registered in the state, to indemnify persons for whom service and maintenance work is performed, if faulty; or with such sureties, form and sufficiency as shall be approved by the commissioner. Such bonds shall be \$1,000.00 for residents of the state and \$5,000.00 for nonresidents. The commissioner shall be the obligee, and the bond shall be for the benefit and purpose to protect all persons damaged by faulty workmanship in the servicing or maintaining of septic tanks. cesspools or seepage pits, and shall guarantee the appearance of the licensee to answer any warrant within 30 days of notice to the bonding company of the issuance of such warrant. Such bonds shall be conditioned upon the performance of the services in a workmanlike and hygienic manner. The application for a solicitor who acts on behalf of such business shall be made to the commissioner prior to March 1 of each year and shall be accompanied by a license fee of \$25.00, payable to the state of Michigan, but need not be accompanied by a surety bond.

Sec. 4. All trucks or other vehicles used to transport or carry wastes from septic tanks,

cesspools or seepage pits shall carry a license by the commissioner for inspection by his representative or any law enforcement agent. The application for such vehicle license shall be made prior to March 1 of each year, and shall state the make, model and year of such vehicle, as well as the capacity of the tank used in the removal of waste from septic tanks, cesspools and seepage pits, and also such other information as the commissioner shall require. Each application shall be accompanied by a license fee of \$10.00 for each vehicle sought to be licensed, payable to the state of Michigan and if the commissioner, after such investigation as he deems necessary, is satisfied that such truck or vehicle and equipment is proper and hygienic for the purpose, he shall issue a license for the use of the vehicle. Applications and fees for vehicle licenses under this act may be received by authorized representatives of the commissioner in city, county or district health departments, and the same forwarded to the commissioner with such information as he may require. This license is not transferable from 1 vehicle to another, and all licenses shall expire on the last day of February of each year. In addition to the vehicle license, which shall be carried on the vehicle at all times, there shall be painted on both sides of the vehicle in letters not less than 2 inches high the words "M.D.H. licensed vehicle", which words shall be followed with the vehicle license number. Directly adjacent to the words and vehicle license number shall be affixed a seal furnished by the commissioner which shall designate the year for which the license was issued. The year on such seal shall correspond to the year which appears on the license plate of the vehicle.

Sec. 5. (a) The tank shall be kept tightly closed in transit, to prevent the escape of contents or odors, and the outside of all vehicles and accessory equipment shall be

kept clean.

(b) The licensee shall deposit all wastes removed from any septic tank, seepage pit or cesspool into a municipal sewage treatment plant or other designated location having adequate facilities as may be made available for receiving such wastes by the municipality when located within 15 road miles. The licensee shall make the proper arrangement with the municipality or agency having jurisdiction over the facilities for their use and may be required to pay a reasonable fee for treatment of the wastes. Nothing herein shall prevent a county or district board of health or the health committee of the board of supervisors from adopting a local regulation or ordinance requiring the wastes removed from any septic tank, seepage pit or cesspool, located within the county, by a licensee, to be disposed of into a municipal sewage treatment plant which has been made available for receiving such wastes.

(c) In the absence of such municipal disposal facilities, wastes shall be disposed of at locations over 200 yards from any residence, public or private place of business or public gathering place or state highways subject to written approval of the property owner and the local health department having jurisdiction. Said written approvals must be preserved and carried on the vehicle for inspection. All wastes must be so disposed of, as not to create a public nuisance or health hazard. Burial of wastes may be required by the local health department having jurisdiction and subject to their approval.

(d) Waste removed from septic tanks, seepage pits or cesspools may be buried on the property from which it originates at least 75 feet from any water supply and 25 feet from any body of water, provided it is covered with at least 12 inches of earth and protected

until settled.

(e) Under no conditions shall dumping be permitted into or adjacent to any public

or private lake, pond, stream, river or any other body of water.

(f) All services shall be conducted in a workmanlike manner and the property served left in a sanitary condition. After the services are rendered, the licensee or his service representative shall furnish the customer with a written receipt which carries the business name and address, name of the owner of the business and the M.D.H. vehicle license number as required under section 4 of this act.

Sec. 6. Nothing in this act shall be construed to require a business license for:

(a) A property owner to clean his own septic tank, seepage pit or cesspool.

(b) A municipality servicing and maintaining a public sewage treatment facility.

(c) A master plumber, duly qualified and licensed under the laws of the state, except that vehicles which are used as defined in this act shall be licensed as set forth in section 4, a master plumber operating under his own name or an assumed name having 3 or more vehicles shall obtain a business license.

This act is ordered to take immediate effect.

	Secretary of the Senate.
	Clerk of the House of Representatives.
pproved	

Act No. 218
Factor acts of 1057
Approved by Governor
July 10, 1967

STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Reps. Jowett, Nunneley, Woodman, Hoffman, Pittenger and Bishop Rep. Kehres named as co-sponsor

ENROLLED HOUSE BILL No. 2156

AN ACT to protect the public health by providing for the supervision and control of bathing beaches open to the public; to prescribe the functions of health agencies; to authorize the establishment of rules for sanitation standards; and to provide penalties for violation of this act.

The People of the State of Michigan enact:

- Sec. 1. The health officer or his authorized representatives of the city, county or district health department having jurisdiction may test and otherwise evaluate the quality of water at bathing beaches open to the public to determine whether the water is safe for bathing purposes. If in his opinion based upon the standards prescribed by the rules adopted under section 3, the water is unsafe for bathing, he may petition the circuit court of the county in which said beach is located for an injunction ordering the governmental agency or person owning or operating the bathing beach to close the beach for use by bathers or other measures that the court deems proper to keep persons from entering thereon. The circuit court judge may grant such an injunction if he feels circumstances warrant same.
- Sec. 2. The director of the department of public health or his authorized representatives shall consult and cooperate with directors of city, county and district health departments and shall provide training for employees thereof and otherwise assist in the effective administration of this act.
- Sec. 3. The director of the department of public health, in concert with the conference of local health officers, shall promulgate rules which shall contain minimum sanitation standards for determining water quality at bathing beaches open to the public which will be used by health officers of city, county and district health departments to establish the safety of the water for swimming. Any water quality standards adopted under the provisions of this section shall be in conformity with the official state water quality standards adopted by the water resources commission under the authority of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948.

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The rules shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

Sec. 4. Any person convicted of violating any provision of this act is guilty of a

misdemeanor.

Sec. 5. Nothing in this act shall change the authority of local boards of health or health committees or boards of supervisors to enact local regulations in accordance with Act No. 306 of the Public Acts of 1927, as amended.

	Clerk of the House of Representatives.
	Secretary of the Senate.
	-
Governor.	
	Governor.

Act No. 19
Public debt of 1967
Approval by Gavarnor
June 2, 1967

74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Reps. Callahan, Rohlfs, Kehres, James F. Smith, Nunneley and Kildee Reps. Smit and Robert W. Davis named as co-sponsors

ENROLLED HOUSE BILL No. 2164

AN ACT to regulate water companies and the sale and distribution of water within the state; to provide a method of review of public service commission orders relating thereto; and to prescribe penalties for the violation hereof.

The People of the State of Michigan enact:

Sec. 1. As used in this act:

(a) "Water company" means any person, firm, association, cooperative association or corporation having 175 customers or more, except cities, villages, townships, counties and other governmental entities, which now owns or may hereafter own, operate, manage or control any equipment or facilities for the production, transmission, delivery or furnishing of water for compensation.

(b) "Commission" means the public service commission.

Sec. 2. The commission is vested with power and jurisdiction to supervise and regulate every water company within the state and to do all things necessary and con-

venient in the exercise of such power and jurisdiction.

Sec. 3. No water company shall hereafter begin the construction or operation of any plant or system for the production, transmission, delivery or furnishing of water, nor shall it render any service for the purpose of transacting or carrying on a local business either directly or indirectly by serving any other utility or agency so engaged in such local business in any locality not previously served by the water company until the water company obtains from the commission a certificate that public convenience and necessity require or will require the construction, operation, service or extension. No service to any area of the state, or facilities used in the providing of the service, shall be discontinued or abandoned by any water company, until the water company obtains from the commission a certificate that public convenience and necessity permit the discontinuance or abandonment.

Sec. 4. All water companies shall furnish reasonably adequate service and facilities. All rates and charges by water companies shall be just and reasonable, and every unjust or unreasonable rate or charge is prohibited and declared to be unlawful. The commission shall have power to make, alter, amend or abolish any rate or charge for any service, and

may regulate by rules or orders any service or facility.

Sec. 5. Within 60 days after the effective date of this act, all water companies which have not heretofore filed with the commission a schedule of rates and charges and rules relating to the rendering of water service shall file a schedule of rates and charges and rules, which shall be the rates and charges and rules in effect on the effective date of this act. Thereafter, no rates, charges or rules shall be changed by any water company without

application to the commission, notice thereof to the municipalities affected by the change and approval of the commission.

Sec. 6. No rate or charge shall be increased without a hearing having been had thereon as provided in section 6a of Act No. 3 of the Public Acts of 1939, as amended, being section 460.6a of the Compiled Laws of 1948.

Sec. 7. It shall be unlawful for any water company to make or give any preference or advantage to any person, copartnership, corporation or locality, or subject any person, copartnership, corporation or locality, to any prejudice or disadvantage in any respect whatever.

Sec. 8. It shall be unlawful for any water company to directly or indirectly charge, demand, collect or receive a greater or less compensation for any service rendered, furnished or performed than that prescribed by and contained in its schedules on file with and approved by the commission.

Sec. 9. Upon the commission's own motion or upon written complaint of any person, firm, association, corporation or municipality, that any practice, rate, charge or service rendered or facility furnished is unreasonable, unjust, unduly discriminatory, inadequate or unlawful, or that any service is being withheld or refused to be rendered, furnished or performed, the commission may proceed to investigate the same, and may hold such hearings and make such findings and orders as is prescribed in section 22 of Act No. 300 of the Public Acts of 1909, being section 462.22 of the Compiled Laws of 1948.

Sec. 10. Whenever a rate of any water company is sought to be changed upon complaint or investigation, or upon the commission's own motion, the burden of proof shall be upon the water company to show that its existing rate is just and reasonable. Upon application of any water company for a change in existing rates, charges or rules, the burden of proof shall be on such water company to show that the rates, charges or rules resulting from the change would be just and reasonable.

Sec. 11. In any case in which a change in any existing rate or charge is sought by any person, water company or the commission, before conclusion of the proofs and arguments or before final decision, the commission may authorize such interim change as it deems just and reasonable, and may require as a condition of the change that a bond with or without sureties be given to insure refunds pursuant to the final order entered in the proceedings.

Sec. 12. All orders of the commission shall become effective 20 days after notice thereof to the water company affected thereby, unless a different effective date is specified in the order. Any order may be made effective as of a date prior to the issuance of the order, but no order shall be made effective as of a date prior to the filing of the application or complaint, or service upon the water company of the notice of investigation upon the commission's own motion, upon which the order is based.

Sec. 13. Every order of the commission relating to water companies shall be prima facie lawful, and may be enforced by any person, firm or corporation or any municipality, or the commission, by suit for injunction, mandamus or other appropriate remedy. Any person, firm or corporation or water company who violates any order, rule or regulation of the commission or this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 and 90 days in jail for each violation. Each day that a violation continues is a separate offense.

Sec. 14. Upon complaint, or upon its own motion, the commission may inquire into any violation of the laws of this state or of commission rules or orders by any water company or any person, firm, corporation, association or cooperative which in the commission's opinion may be a water company. If the commission finds that a violation has been or is about to be committed by a water company or by any person, firm, corporation, association or cooperative found to be a water company, it may order the water company to cease and desist from the violation.

Sec. 15. The commission may grant rehearing, reopening or reconsideration of any order upon application therefor within 30 days after notice to the water company affected by the order of the issuance of such order. The filing of the application for rehearing,

reopening or reconsideration shall suspend the running of the period in which an action may be brought to review such order until such time as the commission shall deny the application. Thereupon the time allowed by law for the bringing of an action to review the order of the commission shall continue running. Any order issued by the commission upon application for rehearing, reopening or reconsideration shall be reviewable in the same manner as original orders of the commission.

Sec. 16. Any order of the commission may be amended, modified or revoked at any time either upon the commission's own motion, or upon the application of any person, for good and sufficient cause.

Sec. 17. The commission may adopt rules and regulations for the regulation of the business of water companies and for regulating procedure before the commission.

Sec. 18. All rules and regulations and orders of the commission heretofore adopted or issued, relating to water companies or the business thereof, are ratified and confirmed.

Sec. 19. The commission or its employees may make such audits and investigations of the books, records and facilities of water companies as the commission deems necessary, and the expense thereof shall be paid by the water company audited or investigated, after notice and opportunity to be heard on the amount of the expense. All moneys paid by water companies pursuant to this section shall be paid to the state treasurer and credited to the general fund of the state.

Sec. 20. (1) Any water company or other party in interest, being dissatisfied with any order of the commission fixing any rate or rates, charges, classifications, regulations, practices or services, within 30 days from the issuance of such order and notice thereof to the water company may commence an action in the circuit court for the county of Ingham against the commission to vacate and set aside any order on the ground that the rate or rates, charges or classifications fixed are unlawful or unreasonable or that any regulation, practice or service fixed in the order is unlawful or unreasonable. In this action the commission shall be served with a summons and a copy of the complaint. The commission shall file its answer, and on leave of court, any interested party may file an answer to the complaint. Upon the filing of the answer of the commission, the action shall be at issue and stand ready for hearing upon 10 days' notice by either party. All actions brought under this section shall have precedence over any civil complaint of a different nature pending in such court, and the circuit court shall be deemed always open for the hearing thereof, and it shall proceed, be tried and determined as other civil actions. The circuit court is given jurisdiction of the actions and empowered to affirm, vacate or set aside the order of the commission in whole or in part, or to remand the order to the commission for the making of such different order as shall be in accordance with law.

(2) No injunction shall issue suspending or staying any order of the commission, except upon application to the circuit court or to the judge thereof, notice to the commission having been given and hearing having been had thereon. No preliminary injunction shall issue suspending or staying any order of the commission without a bond first being filed with the court, with good and sufficient sureties, payable to the commission for the benefit of persons who may be injured should it ultimately be determined that such injunction should not have issued.

(3) Upon the trial of the action, no evidence shall be introduced, other than the transcript of testimony offered to the commission, and other than such evidence as could not have been brought before the commission in the original proceeding, or upon an application for rehearing of the order sought to be reviewed. Any new or additional evidence introduced in the circuit court, unless the parties in the action stipulate in writing to the contrary, shall be transmitted to the commission. Upon receipt of the evidence, the commission shall consider it, and may alter, modify, amend or rescind its order relating to the rates, charges, classifications, regulations, practices or service complained of in the action, and shall report its action thereon to the court within 15 days from the receipt of the evidence. If the commission rescinds its order complained of, the action shall be dismissed; if it alters, modifies or amends it, the altered, modified or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon

as though made by the commission in the first instance. If the original order is not rescinded or changed by the commission, judgment shall be rendered upon the original order. In all actions under this section the burden of proof shall be upon the complainant to show by clear and satisfactory evidence that the order of the commission complained of is unlawful or unreasonable.

Sec. 21. Nothing contained in this act shall be construed to supersede, remove or change any specific authority or duties heretofore granted to the department of public health as such may pertain to water companies.

This act is ordered to take immediate effect.

		Clerk of the House of Representatives
		Secretary of the Senate.
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STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1967

Introduced by Senators Huber, Kuhn and Stamm

ENROLLED SENATE BILL No. 216

AN ACT to regulate the subdivision of land; to promote the public health, safety and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements, and that there be adequate drainage thereof; to provide for proper ingress and egress to lots; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained by subdividers prior to the recording and filing of plats; to establish the procedure for vacating, correcting and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Sec. 101. This act shall be known and may be cited as the "subdivision control act of 1967".

Sec. 102. As used in this act:

(a) "Plat" means a map or chart of a subdivision of land.(b) "Land" means all land areas occupied by real property.

(c) "Preliminary plat" means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

(d) "Subdivide" or "subdivision" means the partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates 5 or more parcels of land each of which is 10 acres or less in area; or 5 or more parcels of land each of which is 10 acres or less in area are created by successive divisions within a period of 10 years.

(e) "Parcel" or "tract" means a continuous area or acreage of land which can be

described as provided for in this act.

(f) "Lot" means a measured portion of a parcel or tract of land, which is described

and fixed in a recorded plat.

(g) "Outlot", when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

- (h) "Proprietor" means a natural person, firm, association, partnership, corporation or combination of any of them which may hold any ownership interest in land whether recorded or not.
- (i) "Governing body" means the legislative body of a city or village or the township board of a township.

(j) "Municipality" means a township, city or village.

- (k) "County plat board" means the register of deeds, who shall act as chairman, the county clerk, who shall act as secretary, and the county treasurer. If the offices of county clerk and register of deeds have been combined, the chairman of the board of supervisors shall be a member of the plat board and shall act as chairman. In a county where a board of auditors is authorized by law such board may elect to serve on the county plat board by adopting a resolution so ordering. A copy of the recorded resolution shall be sent to the state treasurer.
- (1) "Public utility" means all persons, firms, corporations, copartnerships or municipal or other public authority providing gas, electricity, water, steam, telephone, sewer, or other services of a similar nature.

(m) "Caption" means the name by which the plat is legally and commonly known.

- (n) "Replat" means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.
- (o) "Surveyor" means either a land surveyor who is registered in this state as a registered land surveyor or a civil engineer who is registered in the state as a registered professional engineer.
- (p) "Government survey" means the land surveyed, subdivided and monumented by the United States public land survey.
- (q) "Michigan coordinate system" means the system defined in Act No 9 of the Public Acts of 1964, being sections 54.231 to 54.239 of the Compiled Laws of 1948.
- (r) "Alley" means a public or private right of way shown on a plat which provides secondary access to a lot, block or parcel of land.
- (s) "Health department" means the state, city, county or district health department having jurisdiction.
- (t) "Public sewer" means a sewerage system as defined in Act No. 98 of the Public Acts of 1913, as amended, being sections 325.201 to 325.214 of the Compiled Laws of 1948.
- (u) "Public water" means a water works system, as defined in Act No. 98 of the Public Acts of 1913, as amended.
- (v) "Topographical map" means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.
- (w) "Flood plain" means that area of land adjoining the channel of a river, stream, water course, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.
- Sec. 103. (1) Any division of land which results in a subdivision as defined in section 102 shall be surveyed and a plat thereof submitted, approved and recorded as required by the provisions of this act.
- (2) Plats of retracement or boundary surveys made by a department or agency of the United States or of state-owned lands made by a department or agency of the state for the retracement and division of public lands according to the survey instructions issued by the United States department of the interior may be recorded with the register of deeds of the county in which the lands represented on such plats are situated and need not comply with section 102 and this section, except that plat size shall be as provided in section 132.
- (3) A survey and plat shall be made when any amendment, correction, alteration or revision of a recorded plat is ordered by a circuit court.

(4) Urban renewal plats authorized by the governing body of a municipality as provided in Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.83 of the Compiled Laws of 1948, shall conform to this act.

Sec. 104. A replat of all or any part of a recorded subdivision plat may not be approved or recorded unless proper court action has been taken to vacate the original plat or the

specific part thereof, with the following exceptions:

(a) When all the parties in interest agree in writing thereto and record the agreement with the register of deeds, and the governing body of the municipality in which the land included in the recorded plat is situated, has adopted a resolution or other legislative enactment vacating all areas dedicated to public use.

(b) Assessors plats made, approved and recorded as provided for in sections 201 to 213.

(c) Urban renewal plats authorized by the governing body of a municipality, as provided in Act No. 344 of the Public Acts of 1945, as amended. Roads, streets, alleys and other public places shall be vacated in accordance with the provisions of law.

Sec. 105. Approval of preliminary and final plats shall be conditioned upon compliance

with:

(a) The provisions of this act.

(b) Any ordinance or published rules of a municipality or county adopted to carry out the provisions of this act.

(c) Any published rules of a county drain commissioner, county road commission, or

county plat board adopted to carry out the provisions of this act.

(d) The rules of the department of state highways relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.

(e) The rules of the department of the treasury adopted for the approval of plats, including forms, certificates of approval and other required certificates, captioning of plats and numbering of lots, as provided in this act, and as published in the state administrative code.

(f) The rules of the water resources commission of the state department of conservation, adopted for the determination and establishment of floodplain areas of rivers, streams, creeks or lakes, as provided in this act, as published in the state administrative code.

(g) The rules of the department of public health as published in the state administrative code relating to suitability of soils for subdivisions not served by public water and public sewers, the authority for which is granted by this act and the manner prescribed in section 7 of Act No. 146 of the Public Acts of 1919, as amended, being sections 325.1 to 325.14 of the Compiled Laws of 1948. The department of public health may authorize local city, county or district health departments to carry out the provisions of this act relating to suitability of soils for subdivisions not served by public water and public sewers. The department of public health may require percolation tests and boring tests to determine suitability of soils. When such tests are required, they shall be conducted under the supervision of a registered engineer, registered land surveyor, or registered sanitarian in accordance with uniform procedures established by the department of public health.

Sec. 106. No approving authority or agency having the power to approve or reject plats shall condition approval upon compliance with, or base a rejection upon, any requirement other than those included in section 105.

Sec. 111. (1) Before making or submitting a final plat for approval, the proprietor shall make a preliminary plat and submit copies to authorities as provided in sections 111 to 119. A preliminary plat shall show the name, location and position of the subdivision and the subdivision plan and layout in sufficient detail on a topographic map to enable a determination of whether the subdivision meets requirements for lots, streets, roads and highways including drainage and floodplains.

(2) The preliminary plat shall be drawn to a scale of not more than 200 feet to 1

inch and may be an original drawing or reproduction, on unbacked paper. It shall contain proper identification of the parcel of land to be divided, the name of the plat and proposed division of the land, the name and address of the proprietor and the name, address and seal of the surveyor who prepared it, all legibly printed or typewritten. Additional preliminary land development plans may be made by other qualified persons to assist approving authorities to visualize the type and scope of the development planned.

Sec. 112. (1) The proprietor shall submit 4 but not more than 10 copies of the

preliminary plat and other data to the clerk of the municipality.

(2) The governing body, within 90 days from the date of filing, shall tentatively approve and note its approval on the copy of the preliminary plat to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval.

(3) The governing body may require the submission of other related data as it deems necessary, if the requirement for such data has previously been adopted and published

- (4) Tentative approval under this section shall confer upon the proprietor for a period of 1 year from date, approval of lot sizes, lot orientation and street layout. Such tentative approval may be extended if applied for by the proprietor and granted by the governing body in writing.
- Sec. 113. (1) The proprietor shall submit 3 copies of the preliminary plat to the engineer or chairman of the county road commission if the proposed subdivision includes or abuts roads under the commission's jurisdiction.
- (2) The county road commission may also require to be submitted with the preliminary plat a topographic map showing direction of drainage and proposed widths of roads under its jurisdiction or to come under its jurisdiction and private roads in unincorporated areas.
- (3) The county road commission, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.
- Sec. 114. (1) The proprietor shall submit 3 copies of the preliminary plat to the county drain commissioner, if there is a county drain commissioner.
- (2) The county drain commissioner or governing body, if there is no drain commissioner, may require a topographic map showing direction of storm water drainage both within the lands proposed to be subdivided and from the land as subdivided.
- (3) The county drain commissioner or governing body, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.
- Sec. 115. (1) The proprietor shall submit 3 copies of the preliminary plat to the department of state highways, if any of the proposed subdivision includes or abuts a state trunk line highway, or includes streets or roads that connect with or lie within the right of way of state trunk line highways.
- (2) The department of state highways, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given the proprietor in writing.
- Sec. 116. (1) The proprietor shall submit 2 copies of the preliminary plat to the conservation department for information purposes, if the land proposed to be subdivided abuts a lake or stream, or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected.
- (2) The department, within 30 days of receipt of the preliminary plat, shall place the proprietor, the governing body of the municipality and the county plat board on notice in writing if it approves or has any objections or may furnish such information to each as may be helpful or necessary in its opinion to adequately plan the development and secure approval of the final plat.

(3) Copies of such letters shall be sent to the state treasurer.

Sec. 117. The proprietor shall submit 2 copies of the preliminary plat to the water resources commission of the department of conservation, if any of the subdivision lies wholly or in part within the floodplain of a river, stream, creek or lake. The commission, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given in writing to the proprietor. The determination of a floodplain area shall be based on rules specified in subdivision (f) of section 105.

Sec. 118. (1) The proprietor shall submit 2 copies of the preliminary plat to the health department having jurisdiction, if public water and public sewers are not available

and accessible to the land proposed to be subdivided.

(2) The health department, within 30 days of receipt of the preliminary plat, shall approve it and note its approval on the copy to be returned to the proprietor or reject all or such portion of the proposed subdivision that is not suitable. If rejected, it shall give its reasons for rejection and requirements for approval to the proprietor and governing body in writing.

Sec. 119. The proprietor shall submit 2 copies of the preliminary plat to the county

plat board and to the public utilities serving the area for informational purposes.

Sec. 120. (1) Final approval of the preliminary plat approval under this section shall confer upon the proprietor for a period of 2 years from date of approval, the conditional right that the general terms and conditions under which preliminary approval was granted will not be changed. The 2-year period may be extended if applied for by the proprietor and granted by the governing body in writing. Written notice of the extension shall be sent by the governing body to the other approving authorities. The proprietor shall:

(a) Submit a preliminary plat to all authorities as required by sections 112 to 119.

(b) Submit a list of all such authorities to the clerk of the governing body of the municipality, certifying that the list shows all authorities as required by sections 112 to 119.

(c) Submit all approved copies to the clerk of the governing body, after all necessary approvals have been secured.

(2) The governing body of the municipality, after receipt of the necessary approved

copies of the preliminary plat, shall:

(a) Consider and review the preliminary plat at its next meeting, or within 20 days from the date of submission, and approve it if the proprietor has met all conditions laid down for approval of the preliminary plat.

(b) Instruct the clerk to promptly notify the proprietor of approval or rejection in

writing, and if rejected to give the reasons.

(c) Instruct the clerk to note all proceedings in the minutes of the meeting which minutes shall be open for inspection.

(3) Nothing contained in this section shall prohibit a proprietor from submitting a pre-preliminary plat to a governing body for their information and review.

Sec. 125. (1) For every subdivision of land there shall be a survey complying with

the requirements of this section and section 126.

(2) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

(3) All monuments used shall be made of solid iron or steel bars at least ½ inch in diameter and 36 inches long and completely encased in concrete at least 4 inches in diameter.

(4) Monuments shall be located in the ground at all angles in the boundaries of the subdivision; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the plat and at the intersection of alleys with the boundaries of the subdivision; at all points of curvature, points of tangency, points of compound

51 curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(5) If the required location of monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and

referenced to the true point.

(6) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least 1/2 inch in diameter shall be drilled and grouted into solid rock to a depth of at least 8 inches

(7) All required monuments shall be placed flush with the ground where practicable.

(8) All lot corners shall be monumented in the field by iron or steel bars or iron

pipes at least 18 inches long and 1/2 inch in diameter, or other approved markers.

(9) The governing body of the municipality may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the clerk of the municipality cash or a certified check, or irrevocable bank letter of credit running to the municipality, whichever the proprietor selects, in an amount not less than \$25.00 per monument and not less than \$100.00 in total, except that lot corner markers shall be at the rate of not less than \$10.00 per marker. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults the governing body shall promptly require a surveyor to locate the monuments and markers in the ground as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.

Sec. 126. (1) The survey of all subdivisions shall be performed by a surveyor.

(2) The relative error of closure of the surveyed land shall be less than the ratio of 1 part in 5,000.

(3) Bearings shall be expressed in relation to the true meridian, or a previously established meridian or bearing and a statement by the surveyor on the plat stating the source of information in obtaining the bearings outlined.

Sec. 131. (1) Following final approval of the preliminary plat by the governing body, the proprietor shall cause a survey and 5 true plats thereof to be made by a

surveyor

(2) All approvals made on the preliminary plat shall expire as provided in section

(3) A final plat shall not be accepted after the date of expiration of the preliminary

plat approval.

(4) A final plat received by the state treasurer more than 1 year following the date of approval of the city or county treasurer shall be returned to the treasurer who shall make a new certificate currently dated, relative to paid or unpaid taxes, special assessments and tax liens or titles.

(5) All final plats of subdivided land shall comply with the provisions of sections

131 to 151.

All plats shall be legibly prepared according to the following general Sec. 132. requirements:

(a) On 1 or more sheets, 18 inches wide by 24 inches long in size, leaving a 11/2 inch binding margin and a 1/2 inch margin on all other sides.

(b) Of an approved material, according to published specifications of the depart-

ment of the treasury. (c) Drawn or printed with nonfading black ink true to an adequate and plainly read-

able scale of not more than 100 feet to an inch.

(d) The name of the plat shall not duplicate the name of any plat previously recorded in the same county unless it is an addition contiguous to the same. The first subdivision bearing the name may be designated as number 1, and all additions to it shall be consecutively numbered, beginning with number 2.

- (e) Lots shall be numbered consecutively beginning with lot number 1 in the first subdivision bearing the name and continuing in consecutive order throughout the several additions.
 - (f) A north point shall be properly located thereon.

Sec. 133. The caption of the final plat shall be printed at the top of the plat in large, bold letters, and shall include:

(a) Name of the plat.

(b) Part of section, number of section, town and range, municipality and county.

- (c) If a private claim, the number of the claim and the municipality in which the land is situated.
- (d) If a tract of land that is not a section or part of a section, the name by which the tract is legally known and the town and range and municipality in which the land is situated.
- Sec. 134. There shall be typewritten or printed on the final plat, a full and detailed description of the land embraced in the subdivision by distances and bearings. The description shall also include:

(a) The caption of the plat.

- (b) If a private claim, the number of the claim and the municipality in which the land is situated.
- (c) If a tract of land that is not a section or part of a section, the name by which the tract is legally known and the town and range and the municipality in which it is situated.

(d) The name of the original plat and any part of it replatted.

(e) A description by distances and bearings of each excepted parcel.

(f) The number of lots, the number of outlots and the number of private parks.

(g) The intermediate traverse line, if one is required on the plat.

- (h) The area within the existing right of way of any abutting street, county road or state trunk line highway, if such area has not previously been dedicated to public use and if it is the proprietor's land.
- Sec. 135. The map of the subdivision, as drawn on the final plat shall comply with sections 135 to 141. It shall contain sufficient information to completely define, for the purpose of a resurvey, the location of any boundary, corner or angle point within the plat. All land lying within the boundaries of the plat shall be shown thereon in such a manner that title to the area may be clearly established as to whether dedicated to public use or reserved to private use.

Sec. 136. The exterior boundaries of the subdivision as drawn on the plat shall include and correctly show:

(a) The land surveyed and divided, with reference to a corner or corners established in the government survey and indicated by distances and bearings. The Michigan coordinate system may also be used for referencing such government survey points.

(b) The exact length and bearings thereof.

- (c) Where the exterior boundary lines show bearings and distances which vary from those recorded in abutting plats the following note shall be placed along such lines, "recorded as (show recorded bearing or distance or both)".
- (d) The area within the existing right of way of any abutting street, county road or state trunk line highway, if such area has not previously been dedicated to public use and if it is the proprietor's land.
- (e) When the subdivision is bounded by an irregular shoreline of a body of water, the bearings and distances of a closing intermediate traverse, extending across the plat so that it intersects the sidelines of the shore lots; the dimensions of the sidelines of the shore lots from the street line to the traverse line, and the distance from the traverse line to the water's edge as found at the time of the survey; distances along the traverse line beween its intersections with the sidelines of the lots; the location of monuments at all angle points of the intermediate traverse. All lots extending to the water's edge shall be noted accordingly on the plat. If the proprietor intends to retain possession of the area between

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the intermediate traverse and the water's edge, a statement to that effect shall be noted on the plat.

(f) The location of all boundary monuments established in the field in their proper

places.

(g) When any part of the land being subdivided is not included in the government survey, boundaries shall be indicated by distances and bearings and related to a government survey corner or if in a private claim, to a private claim corner.

Sec. 137. All public or private grounds, streets, roads and alleys included in the plat shall be shown as follows:

(a) All public or private commons, parks and other grounds except streets and alleys, by their boundaries, bearings and distances and names.

(b) All streets and roads by their bearings, widths and names.

- (c) All streets, roads or alleys not dedicated to public use shall be marked "private" and named.
- (d) All curved portions of streets, roads or alleys shall be defined by curve data including points of curvature, points of tangency, points of compound curvature, radii of curves, central angles and the length and bearing of its long chord.

(e) Curve data may be shown by a curve data chart or table.

Sec. 138. When any part of a subdivision lies within or abuts a floodplain area, the plat shall include and show the following:

(a) The floodplain shall be shown within a contour line, established by the water resources commission, department of conservation.

(b) The contour line shall intersect the side lines of the lots.

(c) The sidelines shall be dimensioned to the traverse line from the street line and the established floodplain (contour) line.

(d) The floodplain area shall be clearly labeled on the plat with the words "floodplain area".

Sec. 139. All public utility easements included in the plat shall be shown as follows:

(a) By their widths and relationship to the lot or street lines.

(b) As at least 12 feet wide where the rear lines of lots are contiguous.

(c) As at least 6 feet wide if a lot has no adjoining subdivisions.

Sec. 140. All lots and outlots included in the plat shall be shown as follows:

(a) All lots numbered consecutively.

(b) All outlots lettered in alphabetical order.

(c) The length and bearing of each side lot line.

- (d) The bearing of each front and rear lot line, except as otherwise provided in this section.
- (e) A note showing the front line of any lot fronting on 2 or more streets or a body of water except for lots served by public sewers and public water or available and accessible thereto.

(f) The bearings and depths at each end of a tier of lots comprised of rectangles or parallelograms.

(g) The width of lots at each end of a series of lots when the front and back lines are parallel. The intermediate lots may be marked with dittos.

(h) The distance at the time of the survey from the traverse line to the water's edge.

 All curved boundaries shall be shown by curve data as required for public grounds, streets, roads and alleys in section 137.

(j) If a replat, outlines, numbers and other identification of lots of the previous survey shall be shown by dashed lines, figures or letters.

Sec. 141. When the plat includes or abuts certain improvements other than streets, alleys, roads or highways, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public waters, the included or abutting portions of such proposed improvement shall be shown on the plat.

Sec. 142. To entitle a final plat to be recorded, the following certificates, in the form

prescribed by the state treasurer, lettered or printed legibly with black, durable ink or typed legibly with black ribbon shall appear on it and the certificates shall contain the statements and information and shall be signed and dated as prescribed in sections 141 to 150:

(a) A surveyor's certificate of compliance with the statute.

(b) A certificate of the proprietor submitting the plat.

(c) A certificate of taxes by the treasurer of the county in which the plat is situated, as required by section 35 of Act No. 206 of the Public Acts of 1893, as amended by section 211.35 of the Compiled Laws of 1948.

(d) A certificate of taxes signed by the treasurer of the municipality in which the plat is located if the municipality does not return delinquent taxes to the state treasurer, as required by section 35 of Act No. 206 of the Public Acts of 1893, as amended.

(e) A certificate of approval of the county drain commissioner, if there is a county drain commissioner.

(f) A certificate of approval of the board of county road commissioners, if public streets and roads shown on the plat are under its jurisdiction or to come under its jurisdiction and if any private streets or roads shown on the plat are in an unincorporated area.

(g) A certificate of approval of the governing body of the municipality. The certificate of the governing body of the municipality may not be placed on the plat unless the proprietor has deposited with the clerk both the filing and recording fee required by section 241 and the fee permitted by section 246 by the municipality for review and approval of a plat.

(h) A certificate of approval of the county plat board. The certificate may not be placed on the plat unless the filing and recording fee required by section 241 has been received by the clerk of the county plat board.

(i) A certificate of approval of the state highway commission when the subdivision includes or abuts state trunk line highways.

(j) A certificate of approval of the state treasurer. The certificate of the state treasurer may not be placed on the plat unless the portion of the filing and recording fee due the state as provided by section 241 has been received by him.

Sec. 143. The certificate of the surveyor who surveyed, divided and mapped the land; and if a firm of surveyors also by a partner or principal officer, shall give the following information, which shall have the same force and effect as an affidavit:

(a) By whose direction he made the survey, subdivision and plat of the land described on the plat.

(b) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and the subdivision of it.

(c) A statement that he has prepared the description of the land shown on the plat and that he certifies to its correctness.

(d) A statement that he has caused all of the monuments shown on the plat to be located in the ground, or that the required cash, certified check or irrevocable bank letter of credit has been deposited with the clerk of the municipality by the proprietor.

(e) A statement that the accuracy and closure of survey are within the limits required by section 125.

(f) A statement that the bearings shown on the plat are expressed as required by section 126.

Sec. 144. (1) The proprietor's certificate on the plat shall include the following:

(a) The caption of the plat.

(b) A statement that the proprietor has caused the land described on the plat to be surveyed, divided, monumented, mapped and dedicated as shown on the plat.

(c) A statement that the streets, alleys, parks and other places shown on it which are usually public are dedicated to the use of the public.

(d) A statement that all public utility easements are private easements and that all other easements are reserved to the uses shown on the plat.

(e) The name of each street, park or other place which is usually public and which is intended to be reserved to other than public use, and the character and purpose of such use.

(f) That the plat includes all land to the water's edge.

- (2) The proprietor's certificate shall be signed by the following, each signature shall be witnessed by 2 persons, and the signatures shall be acknowledged as deeds conveying lands are required to be witnessed and acknowledged:
 - (a) All persons holding the title by deed of the lands.

(b) All persons holding any other title of record.

(c) All persons holding title as mortgagee or vendee under land contract, or who are in possession but shall not include renters.

(d) The wives of persons named in subdivisions (a), (b) and (c).

- Sec. 145. (1) A certificate shall be signed and dated by the county treasurer relative to paid or unpaid taxes, special assessments and tax liens or titles, as required by section 35 of Act No. 206 of the Public Acts of 1893, as amended.
- (2) The certificate shall be signed and dated by the treasurer of the municipality, if the municipality does not return delinquent taxes to the state treasurer, as required by section 35 of Act No. 206 of the Public Acts of 1893, as amended.
- Sec. 146. A certificate shall be signed and dated by the drain commissioner or where there is no drain commissioner, the body having jurisdiction, signifying that the provisions of section 192 have been met and that the plat meets his approval.

Sec. 147. (1) A certificate shall be signed by the majority of the board of county road commissioners.

(2) The certificate shall show the date on which the board met and approved the plat and the date the certificate was placed on the plat.

The certificate shall signify that:

The plat has been reviewed and conforms to the requirements of this act and the board's published rules and regulations relative to streets, alleys, roads and highways under its jurisdiction.

(b) The plat has the board's approval.

Sec. 148. (1) A certificate shall be signed by the clerk of the governing body of the municipality signifying the approval of the plat by the governing body which shall show the date of the meeting at which the approval was made and the date the certificate was signed by the clerk.

(2) The certificate shall include a statement that the plat was reviewed by the governing body or that the review was made in part by persons authorized by the governing body and that the plat is in conformance with all applicable provisions of the act

(3) If a copy of the preliminary plat was required to be approved by the health department, a statement to the effect that such approval was made and the name of the health department and the date of its approval shall be included.

(4) If the minimum lot width and area prescribed in this act has been waived and the subdivision is served by public sewers and public water or is accessible thereto, the certificate shall so state and shall also state that the municipality has legally adopted zoning and subdivision control ordinances which specify lot widths and areas

(5) If there is no county drain commissioner, a statement that the plat is in compliance with the provisions of section 192.

Sec. 149. (1) A certificate shall be signed and dated by the majority of the county

plat board, signifying its approval of the plat,

(2) The certificate shall include a statement that the plat was reviewed for conformance to all applicable provisions of this act by the county plat board, by the county plat engineer, or both.

Sec. 150. (1) A certificate shall be signed and dated by the state highway commission or by an official of the department of state highways, authorized by the commission to certify its approval on plats.

(2) The certificate shall signify that:

(a) The plat has been reviewed and conforms to the requirements of this act and the commission's published rules and regulations relative to streets, roads and highways under its jurisdiction.

(b) The plat has the commission's approval.

Sec. 151. (1) A certificate shall be signed and dated by the state treasurer, or may be signed and dated for him by an officer of the department of treasury, if authorized by the state treasurer.

(2) The certificate shall signify that:

(a) The plat conforms, in his opinion, to all of the requirements of this act and to the published rules and regulations of the department of treasury, relative to plats.

(b) The plat has the state treasurer's approval.

Sec. 161. The final plat shall be submitted in accordance with the procedure prescribed in sections 162 to 173.

Sec. 162. The proprietor shall submit 5 true copies of the final plat to the drain commissioner, if his approval was required on the preliminary plat, or 6 true copies if the proprietor requests an additional copy to be returned to him.

Sec. 163. Within 10 days, the drain commissioner shall:

(a) Certify his approval on all copies of the plat and return it to the proprietor; or

(b) Reject the plat, give his reasons in writing, and return it to the proprietor.(c) Send a copy of the letter of rejection to the clerk of the governing body.

Sec. 164. When the plat has been approved by the drain commissioner, the proprietor shall submit all copies of the plat to the board of county road commissioners, when their approval was required on the preliminary plat.

Sec. 165. Within 15 days, a majority of the board of county road commissioners shall:

(a) Certify their approval on all copies of the plat and return it to the proprietor; or

(b) Reject the plat, give their reasons in writing, and return it to the proprietor.(c) Send a copy of the letter of rejection to the clerk of the governing body.

Sec. 166. When the plat has been approved by the drain commissioner and the county road commissioners, the proprietor shall submit all copies of the plat to the clerk of the governing body of the municipality, together with the filing fee required by section 241.

Sec. 167. At its next regular meeting, or at a meeting called within 20 days of the

date of submission, the governing body shall:

(a) Approve the plat if it conforms to all of the provisions of this act and instruct the clerk to certify on the plat to the governing body's approval, showing the date of the governing body's approval, the approval of the health department, when required and the date thereof as shown on the approved preliminary plat; or

(b) Reject the plat, instruct the clerk to give the reasons in writing as set forth in

the minutes of the meeting, and return the plat to the proprietor.

(c) Instruct the clerk to record all proceedings in the minutes of the meeting, which

shall be open for inspection.

Sec. 168. (1) When approved by the governing body, the clerk shall promptly forward all copies of the plat to the clerk of the county plat board, together with the filing and recording fee.

(2) Within 15 days of the date of receipt of the plat, a majority of the county plat board shall:

(a) Review the plat for conformance to all provisions of the act and certify their approval on all copies; or

(b) Reject the plat and notify the proprietor of the reasons in writing when returning

the plat, also sending a copy of the letter to the clerk of the governing body.

Sec. 169. When approved by a majority of the county plat board, the clerk of the board shall secure a warrant from the county treasurer for $\frac{1}{2}$ the filing and recording fee required by section 241 and forward it with all copies of the plat to the state treasurer.

Sec. 170. (1) Within 15 days after receipt of the plat from the county plat board, the state treasurer shall promptly forward the plat to the state highway commission, if

the plat includes or abuts a state trunk line highway.

- (2) Within 10 days of receipt of the plat the state highway commission shall
- (a) Certify its approval on the plat and return it to the state treasuer; or
- (b) Reject the plat and notify the proprietor directly, giving the reasons in writing, returning the plat to the state treasurer with a copy of the letter of rejection.
- Sec. 171. Within 15 days after receipt of the plat, or within 25 days if the plat requires the approval of the state highway commission, the state treasurer shall:
- (a) Review the plat and when it conforms to all of the provisions of this act, he shall approve it and send 1 copy of the plat to the register of deeds for recording; or
 - (b) Reject the plat and notify the proprietor in writing of the reasons.
 - Sec. 172. Upon receipt of the plat from the state treasurer the register of deeds shall:
- (a) Certify on the plat the time of recording and the book and page where recorded. He shall not accept a plat for recording unless it is sent to him by the state treasurer and bears his certificate of approval.
 - (b) Note on the record the time when made.
- (c) Record the book and page number of any building restrictions noted on or filed with the plat.
- (d) Certify and promptly forward to the state treasurer on a form specified by him that the plat has been recorded.
- Sec. 173. When notification of recording of 1 copy of plat has been received by the state treasurer, he shall:
 - (a) Transcribe the certificate of recording on all other copies.
 - (b) Retain 1 copy for his files.
- (c) Mail 1 copy of the plat to the county treasurer, 1 copy to the clerk of the municipality in which the plat is located, 1 copy to the county road commission or the city planning commission, and 1 copy to the proprietor if he has submitted an extra copy for certification and mailing.
- Sec. 181. All streets, alleys, roads and highways shown, or required to be shown on a plat shall comply with the requirements of sections 181 to 185 as a condition of approval of the final plat.
- Sec. 182. (1) The governing body of a municipality in which the subdivision is situated may require the following as a condition of approval of final plat, for all public and private streets, alleys and roads in its jurisdiction:
- (a) Conformance to the general plan, width and location requirements that it may have adopted and published, and greater width than shown on a county or state plan, but may not require conformance to a municipal plan that conflicts with a general plan adopted by the county or state for the location and width of certain streets, roads and highways.
- (b) Proper drainage, grading and construction of approved materials of a thickness and width provided in its current published construction standards.
 - (c) Installation of bridges and culverts where it deems necessary
- (d) Submission of complete plans for grading, drainage and construction to be prepared and sealed by a civil engineer registered in the state.
- (e) Completion of all required improvements relative to streets, alleys and roads or a deposit by the proprietor with the clerk of the municipality in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the governing body, in an amount sufficient to insure completion within the time specified.
- (2) As a condition of approval of the plat, the governing body may require a deposit to be made in the same manner as provided in subdivision (e) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements.
- (3) The governing body shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.
 - (4) The governing body shall:
- (a) Reject a plat which is isolated from or which isolates other lands from existing public streets, unless suitable access is provided.

(b) Reject a plat showing a street or road name duplicating one already in use in the municipality, except in continuing a street or road.

(c) Reject a plat showing the name of a new street, alley or road that is so similar to the one already in existence in the municipality that permitting such use in the subdivision may be confusing for purposes of assessing, mail delivery and locating by the public.

Sec. 183. (1) The county road commission may require the following as a condition of approval of final plat for all highways, streets and alleys in its jurisdiction or to come under its jurisdiction and also for all private roads in unincorporated areas:

(a) Conformance to the general plan, width and location requirements that the board may have adopted and published.

(b) Adequate provision for traffic safety in laying out drives which enter county roads and streets, as provided in the board's current published construction standards.

(c) Proper drainage, grading and construction of approved materials of a thickness and width provided in its current published construction standards.

(d) Submission of complete plans for grading, drainage and construction, to be prepared and sealed by a civil engineer registered in the state.

(e) Installation of bridges, culverts and drainage structures where it deems necessary.

(f) Completion of all required improvements relative to streets, alleys and roads, or a deposit by the proprietor with the board in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the board, in an amount sufficient to insure completion within the time specified.

(2) As a condition of approval of the final plat, the board may require a deposit to be made in the same manner as provided in subdivision (f) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements.

(3) The board shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(4) The board shall reject a final plat isolating lands from existing public streets or roads, unless suitable access is provided, and shall also require that such access be granted by easement or dedicated to public use.

Sec. 184. (1) The department of state highways may require, where a plat abuts a state trunk line highway, if the existing right of way was not previously dedicated to public use or acquired in fee simple, that there be included within the plat boundary and description the area within the existing right of way and that such area be dedicated to public use if it is the proprietor's land. The department of state highways may also require the following as a condition of approval for highways and streets shown on the final plat:

(a) Conformance in width and location to the plan on file at its main and district offices for state trunk line highways.

(b) Adequate provision for traffic safety in laying out roads, streets and alleys which enter state trunk line highways, as provided in the department's then currently published standards and specifications.

(c) That those portions of connecting streets and roads within state trunk line highway right of way be graded and surfaced in accordance with the department's then currently published standards and specifications.

(d) Completion of all required improvements, or a deposit by the proprietor with the department in the form of cash, a certified check or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to the department, in an amount sufficient to insure completion of all required improvements within the time specified.

(2) Following approval of the final plat, the department may require a deposit to be made in the same manner as provided in subdivision (d) of subsection (1), to insure performance of any of the obligations of the proprietor to make required improvements. If a cash deposit is required, the department shall rebate to the proprietor, as the work progresses, an amount of cash equal to the ratio of the work completed to the entire project.

Sec. 186. The following shall apply to all lots and outlots intended for sale, lease

59 or building development in any subdivision as represented on a plat, as a condition of approval of the final plat:

(a) Lots shall be numbered consecutively. If more than 1 subdivision is intended to be known by the same name or caption, the lots in those subdivisions shall be numbered

consecutively throughout the several subdivisions bearing the same name

(b) No residential lot shall be less than 65 feet wide at the distance of 25 feet from its front line. If a lot diminishes in width from front to rear, it shall be no less than 65 feet wide at a distance of 50 feet from its front line.

(c) No residential lot shall have an area of less than 12,000 square feet.

(d) Minimum width and area requirements for residential lots as set forth in this act may be waived in any subdivision where connection to a public water and a public sewer system is available and accessible or where the proprietor before approval of the plat has posted security with the clerk of the municipality as provided in section 182, and where the municipality in which the subdivision is proposed has legally adopted zoning and subdivision control ordinances which include minimum lot width and lot area provisions for residential buildings.

(e) The governing body may require that any outlots designated on the plat be of such size, extent and in such location as will not impair the intent of this act or of any adopted and published applicable municipal rules, regulations or policies for land de-

velopment.

(f) Each lot and outlot shown on a plat shall have direct access to a street or road or assured permanent access is provided for in accordance with a local subdivision control

ordinance or a zoning ordinance with subdivision control provisions.

Sec. 188. (1) If the subdivision includes or abuts certain improvements other than streets and alleys, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public waters and such improvements are not in existence at the time of consideration by the governing body of the municipality, it may require, as a condition of approval of the final plat, the proprietor to enter into an agreement to construct such improvements within a reasonable time.

(2) The governing body may require a cash deposit, certified check or irrevocable bank letter of credit whichever the proprietor selects, or surety bond acceptable to the municipality, covering the estimated cost of construction, to be deposited with the clerk of the municipality to insure the faithful performance of the agreement. Outlots or parks used as buffer strips, if between the boundary of the subdivision and such improvements,

shall not alter the requirements of this section.

(3) Any municipality may provide by ordinance for the installation of other improve-

ments in addition to those required by this act. The governing body of the municipality, as a condition of approval of the plat, may require the proprietor to enter into an agreement, as provided in this section.

Sec. 190. The proprietor shall provide public utility easements in accordance with the provisions of section 139. The following shall apply to all public utility easements included in a subdivision:

(a) Easements intended for use of public utilities shall not be deemed to be dedicated to the public but shall be private easements for public utilities and shall be equitably shared among such utilities.

(b) The public utilities first using an easement shall be reimbursed by later users for all rearrangement or relocation costs.

(c) Permanent structures may not be erected within easement limits by the owner of the fee but he shall have the right to make any other use of the land not inconsistent with the rights of public utilities, or the other uses as noted on the plat.

(d) The public utilities shall have the right to trim or remove trees that interfere with their use of easements.

(e) Nothing in this act shall be construed to limit any regulatory powers possessed by municipalities with respect to public utilities.

Sec. 192. The county drain commissioner or the governing body of the municipality

in which the subdivision is situated, whichever has jurisdiction, shall require the following as a condition of approval of the final plat:

(a) That the proprietor provide for adequate storm water facilities within the lands proposed for platting and outlets thereto.

(b) If adequate storm water facilities within the land proposed for platting are not required to be installed before approval of the final plat, the proprietor shall enter into an agreement with the governing body or county drain commissioner and shall post a cash deposit, certified check or irrevocable bank letter of credit whichever the proprietor selects, or a surety bond acceptable to the approving authority, in an amount not to exceed 100% of the estimated cost of the project including contingencies for the faithful performance of the agreement. A rebate shall be made to the proprietor, as the work progresses, of amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(c) The county drain commissioner, or where there is no drain commissioner the body having jurisdiction may require the proprietor to establish a county drainage district according to the procedure provided in Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948, if deemed necessary to insure adequate maintenance of storm water outlet facilities.

Sec. 194. If any part of a proposed subdivision lies within the floodplain of a river, stream, creek or lake, approval of the final plat shall be conditioned on the following:

(a) No buildings for residential purposes and occupancy shall be located on any portion of a lot lying within a floodplain, unless approved in accordance with the rules of the water resources commission of the department of conservation.

(b) Restrictive deed covenants shall be filed and recorded with the final plat that the floodplain area will be left essentially in its natural state.

(c) The natural floodplain may be altered if its original discharge capacity is preserved and the stream flow is not revised so as to affect the riparian rights of other owners.

Sec. 196. The following shall apply to all subdivisions as a condition of approval:

(a) The name of a subdivision as included in the caption of the plat shall not use the name of a previously recorded subdivision within the same county unless it is an addition thereto

(b) The first subdivision bearing the name may be numbered 1 and all additions shall be contiguous and numbered consecutively beginning with number 2.

(c) A plat duplicating the name of any existing subdivision within the same county shall be rejected by the governing body or county plat board.

(d) The governing body or county plat board may also reject plats submitted with subdivision names so closely approximating previously recorded plats that such use might easily lead to misunderstanding or confusion for purposes such as assessment and description of land.

Sec. 198. Subject to review and approval at a meeting of the county plat board of the county in which the subdivision is located, an affidavit by the surveyor who certified the plat may be recorded in the office of the register of deeds in which the plat is recorded but only for the purpose of correcting minor and typographical errors in distances, angles, directions, bearings, chords, lot numbers, street numbers or other details shown on a recorded plat as follows:

(a) The affidavit shall explain the purpose, exact nature, and details of the correction.

(b) If the county plat board rejects the request for recording of the affidavit, it shall give its reasons in writing.

(c) The register of deeds, after approval of the county plat board, shall note on the plat a reference to the book and page in which the affidavit is recorded and shall send a certified copy to the state treasurer, who shall note or reference it on his copy of the plat. The state treasurer shall send copies to all agencies which received a copy of the plat.

(d) A recorded affidavit, or a certified copy thereof, shall be prima facie evidence of the facts therein stated.

(e) Affidavits of correction may not be used to change the boundaries or shape of lots, outlots or parcels of land in a subdivision.

Sec. 201. (1) An assessor's plat shall comply with sections 201 to 213 and may be ordered if the following conditions exist:

(a) When a parcel or tract of land is owned by 2 or more persons.

(b) When the description of 1 or more of the different parcels within the area cannot be made sufficiently certain and accurate for the purposes of assessment and taxation without a survey or resurvey.

(2) The governing body of a municipality by adoption of a resolution may cause a plat to be made for such purposes after a report from the assessor or supervisor bringing to their attention an area of land in which the stated conditions exist. It shall include in the resolution the estimated cost assessable to each parcel of land to be included in the plat for the purpose of immediate assessment, subject to final adjustment in accordance with section 203.

Sec. 202. (1) The plat shall be called an assessor's plat and given a name. It shall plainly define the boundary of each parcel, each street, alley or road and dedication to public or private use, as such, shall be evidenced by the records of the register of deeds.

(2) The plat shall be made by a surveyor.

Sec. 203. The actual and necessary costs and expenses of making assessor's plats shall be paid out of the general fund of the city, incorporated village or township whose governing body ordered the plat. All of the cost shall be charged to the land so platted in the proportion that the area of each parcel bears to the total area of all lands included in the assessor's plat, as a special assessment on such land, in the manner provided in Act No. 67 of the Public Acts of 1961, being sections 41.921 to 41.925 of the Compiled Laws of 1948.

Sec. 204. (1) The surveyor making the plat shall survey and lay out the boundaries of each parcel, street, alley or road and dedication to public or private use, according to the records of the register of deeds and whatever other evidence that may be available to show the intent of the buyer and seller, in the chronological order of their conveyance or dedication.

(2) The surveyor shall also:

(a) Set temporary monuments to show the results of the survey.

(b) Make a map of the proposed plat to the scale of not more than 100 feet to 1 inch.

Sec. 205. The proprietors of record of lands in the plat shall be notified by registered mail to their last known address, in order that they shall have opportunity to examine the map, view the temporary monuments, and make known any disagreement with the boundaries as shown.

Sec. 206. (1) The surveyor making the plat shall reconcile any discrepancies that may be revealed, so that the plat as certified to the governing body shall be in conformity

with the records of the register of deeds as nearly as is practicable.

(2) When boundary lines between adjacent parcels, as evidenced on the ground, are mutually agreed to in writing by the proprietors of record or in possession, such lines may be the true boundaries for all purposes thereafter, even though they vary from the metes and bounds descriptions previously of record. The written agreements shall be recorded in the office of the register of deeds.

(3) When reconciliation has been completed, the temporary monuments shall be replaced with permanent monuments meeting the specifications and provisions of this act

for monuments.

Sec. 207. (1) On every assessor's plat, as certified to the governing body, shall appear the bearings and distances of lines of each parcel recorded in the office of the register of deeds, and each lot shall also be numbered as provided in this act for final plats.

(2) The provisions of this act as to surveys and monuments and as to form and procedure, insofar as they are applicable to the purposes of assessor's plats shall apply.

Sec. 208. The sworn certificate of the surveyor who made the plat and, if a firm of

surveyors also by a partner or principal officer, shall appear on the plat and shall state the following:

(a) The name of the governing body by whose order the plat was made, and the date of the order.

(b) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and each parcel or lot thereof.

(c) A statement that he has fully complied with the provisions of this act in filing

the plat.

Sec. 209. (1) When completed, the assessor's plat shall be filed with the clerk of the governing body that ordered the plat. In unincorporated areas, the certificate of the county road commission shall first be secured, stating that the public roads shown on the plat were in existence at the time the plat was made.

(2) The clerk shall promptly give notice thereof by rublication for 3 successive weeks in a newspaper of general circulation in the city, village, township or county, or if there is none, in a newspaper published in the adjoining county and having general circulation

in the locality where the plat is situated.

(3) The plat shall remain on file in the clerk's office for 30 days after the first publication. At any time within the 30-day period any person or public body having an interest in any lands affected by the plat may bring a suit to have such plat corrected.

(4) If no such suit is brought within such time, the plat may be approved by the

governing body.

(5) If suit is brought, approval shall be withheld until it is decided. If necessary, the plat shall be revised in accordance with such decision, then approved by the governing body.

Sec. 210. The plat, when completed and certified as provided in this act with the exception of the certification by the county plat board and when approved by the governing body and in unincorporated areas by the board of county road commissioners, shall be acknowledged by the clerk thereof. When so approved and acknowledged, all copies of the plat shall be forwarded to the state treasurer together with the recording fee specified in this act for all plats. The state treasurer shall review the plat for adherence to the provisions of this act, or may reject it giving his reasons in writing. Upon approval. the state treasurer shall forward the plat to the register of deeds for recording. On return of the proof of recording the required recording fee shall be sent to the register of deeds and the state treasurer shall distribute the copies as required for all other final plats.

Sec. 211. When an assessor's plat is recorded, the register of deeds shall notify the county treasurer. The county treasurer shall notify the assessor if any part of the lands included in the plat are delinquent for taxes or special assessments for any year prior to the date of recording. The assessor or supervisor shall apportion such taxes or assessments against the individual or several lots in the plat. The apportionment of delinquent taxes and special assessments shall be governed by the provisions of section 53 of Act No. 206 of the Public Acts of 1893, as amended. The apportioned taxes and special assessment shall thereafter become a lien against the individual or several lots in the plat and treated in the same manner as taxes of the year of the original assessment for the purpose of collection and sale for delinquent taxes as provided by Act No. 206 of the Public Acts

of 1893, as amended.

Sec. 212. Reference to any land, as it appears on a recorded assessor's plat is sufficient for purposes of assessment and taxation. Conveyance may be made by reference to the plat and shall be as effective to pass title to the land so described as it would be if the premises had been described by metes and bounds. The plat or record thereof shall be received in evidence in all courts and places as correctly describing the several parcels of land therein designated. After an assessor's plat has been made and recorded with the register of deeds, all conveyances of lands included in the assessor's plat shall be by reference to the plat. Any instrument dated and acknowledged after January 1, 1968, purporting to convey or mortgage any such lands except by reference to such assessor's plat may not be recorded by the register of deeds.

Sec. 213. (1) Whenever a parcel of land has been subdivided and platted and the

(2) The assessing officer shall certify under his hand and seal that the municipality has acquired the title to the highways, streets, alleys and public places shown on the assessor's plat by reason of purchase, dedication, condemnation or adverse possession for public use, and if there are any roads, streets, alleys or other such places to which the municipality has not acquired title for public use the extent of their use shall be plainly stated in the dedication, and the plat shall be signed and acknowledged by the officer.

Sec. 221. The circuit court may, as provided in sections 222 to 229:

(a) Order a recorded plat to be amended by a change in a dimension which results in changing the size or shape of any part of the plat.

(b) The circuit court may vacate, correct, alter or revise all or any part of a recorded plat.

Sec. 222. (1) To amend a recorded plat, the proprietor of the subdivision or any lot in the subdivision may apply to the appropriate circuit court.

(2) To vacate, correct, alter or revise a recorded plat or any part of it, the proprietor of a subdivision or any lot in a subdivision; the governing body of a municipality which considers it necessary or advisable in the interests of the welfare, health or safety of its citizens; 2/3 of the proprietors collectively, of lands in the subdivision, and who also own 2/3 by area of the lands may apply to the appropriate circuit court.

Sec. 223. (1) The petition to the circuit court shall set forth:

(a) The petitioner's reasons and the particular circumstances of the case.

(b) The dimensions to be changed or the part of the plat to be vacated, corrected or revised.

(c) The names of the persons to be particularly affected thereby, and the extent of their interest.

(2) The petition shall be filed with the clerk of the court at least 30 days previous to the sitting of the court to which the petitioner intends to make an application.

Sec. 224. (1) At least 20 days before the hearing of the application, the petitioner shall give notice of the pendency of the petition and of the time when the application will be made:

(a) By publishing the notice once each week for 3 successive weeks in a newspaper printed or circulated in the county in which the subdivision is located.

(b) By posting the notice in 3 of the most public places in the municipality in which the subdivision is situated.

(c) By mailing a copy of the notice by first class mail to those persons shown by the latest available assessor's records to be the owners of each lot or parcel of land included within or abutting the lands described in the petition.

(2) The notice shall contain the dimensions sought to be changed or a description of the property sought to be vacated, corrected or revised.

Sec. 225. At least 20 days before the hearing of the application, personal service or service by registered or certified mail shall be made upon the following:

(a) The presiding officer of the municipality in which the land is situated and on the chairman of the planning commission, if there is one, but they need not be so served if the municipality is the petitioner.

(b) The state treasurer, who shall also be made a party to the proceedings.

(c) The drain commissioner and the chairman of the board of road commissioners having jurisdiction in any of the land included in the plat.

(d) Each public utility which is known to the petitioner to have installations or equipment in the subdivision, or has a recorded easement or franchise rights which will be affected by the proceedings.

(e) The director of the department of state highways if any of the subdivision

includes or borders a state highway or federal aid road.

Sec. 226. After requiring proof that the required notices have been given and after hearing all interested parties, the court may order dimensional changes to be made in a recorded plat, or may order a recorded plat or any part of it to be vacated, corrected or revised, with the following exceptions:

(a) No part of a state highway or federal aid road may be vacated, corrected or

revised except by the department of state highways.

(b) No part of a county road may be vacated, corrected or revised except by the

county road commission having jurisdiction.

(c) No part of a street or alley under the jurisdiction of a city or village and no part of any public walkway, park or public square or any other land dedicated to the public may be vacated, corrected or revised under the provisions of this section except by both a resolution or other legislative enactment duly adopted by the governing body of the municipality and by court order.

(d) Any order under this section vacating, correcting or revising any highway, road, street or other land dedicated to the public and being used by any public utility for public utility purposes shall reserve an easement therein for the use of public utilities,

and may reserve an easement in other cases.

Sec. 227. The part vacated, if it is a lot, shall vest in the rightful proprietor; and if it is a street or alley, shall be attached to the lot or ground included in the plat and bordering on the street or alley. If the land included in the plat on opposite sides of such street or alley is owned by different proprietors, then the title of the street or alley shall vest in the proprietor owning the property on each side thereof to the center of the street or alley, except when a part of 1 or both sides of a street or alley is vacated, then the part vacated shall be attached to and in any future legal description of the lot be a part of the title thereof vested in the proprietor of the lot included in the plat adjoining the same.

Sec. 228. Within 30 days, the applicant for the vacation or revision shall record in the office of the register of deeds the order amending, vacating, correcting or revising the plat. The register of deeds shall place on the original plat the date, liber and page of the recording. A certified copy of the record shall first be given to the applicant by the clerk of the court, for which the clerk is entitled to receive the sum of \$1.00 per sheet.

Sec. 229. (1) If the court orders a change in any of the dimensions of a recorded plat, the change shall be set forth in an amended plat made by a surveyor of the affected part of the recorded plat as required by this act for final plats. Five true copies of the amended plat shall be filed with the state treasurer, accompanied by the filing and recording fee and certified copy of the judgment. The existing caption of the plat shall include the words "amended plat of". The filing and recording fee shall be the same as for a final plat.

(2) If the court orders a recorded plat, or any part of it to be corrected, altered or revised, a new plat shall be made and filed as required by this act for final plats. The

filing and recording fee shall be the same as for a final plat.

. (3) After the state treasurer has examined the plat for compliance with the court judgment and the provisions of this act for the making and filing of final plats and has approved the plat as made, he shall distribute 1 copy each to the register of deeds, clerk of the municipality, county treasurer and county road commission. One copy shall be filed in the office of the state treasurer.

Sec. 241. (1) When the final plat is submitted to the clerk of the governing body of the municipality, the proprietor shall deposit with the plat a fee of \$20.00, which shall be known as the filing and recording fee and shall be in addition to any fee the municipality may charge under the provisions of the act.

(2) On approval of the plat by the governing body, the clerk shall send the \$20.00

fee when sending the plat to the clerk of the county plat board.

(3) The clerk of the county plat board shall deposit the fee in the county trust and agency fund for subsequent payments by county warrant from this fund to:

(a) The state, in the amount of \$10.00, upon the approval of the plat by the county plat board.

(b) The county register of deeds in the amount of \$10.00, upon submission of proof to the clerk of the county plat board that the plat has been duly recorded in the office of the county register of deeds.

(4) The state treasurer shall deposit the state's portion of the fee in the state general fund.

(5) The state treasurer may also charge an additional \$10.00 fee if he is of the opinion that the review time is of an extraordinary nature.

Sec. 242. (1) The state treasurer shall maintain a permanent file of plats and the index shall contain all pertinent information necessary to facilitate reference.

(2) A fee established by the state treasurer shall be collected for copies of plats.

Sec. 243. (1) The register of deeds shall maintain a permanent file of recorded plats.

(2) The expense of maintaining the file, such as for binders, cabinets, supplies and microfilming, shall be provided from the general fund of the county.

(3) A fee of not less than \$1.00 per sheet shall be collected by the register of deeds for copies of plats recorded in his office.

Sec. 244. (1) If the proprietor of a subdivision desires to retain a copy of the final plat, he shall forward a sixth copy of it to the state treasurer for certification as an exact copy of the approved and recorded plat.

2) The true copy requested may be made upon tracing linen or some similar material,

(3) No charge shall be made for certification of the sixth copy.

Sec. 245. The proprietor submitting the plat for approval shall furnish to the governing body an abstract of title certified to date of the proprietor's certificate to establish recorded ownership interests and any other information deemed necessary for the purpose of ascertaining whether the proper parties have signed the plat, or a policy of title insurance currently in force, covering all of the land included within the boundaries of the proposed subdivision. The governing body, in lieu of an abstract of title, may accept on its own responsibility an attorney's opinion based on the abstract of title as to ownership and marketability of title of the land.

Sec. 246. (1) The governing body of a municipality may adopt by ordinance a reasonable schedule of fees, based on the number of lots in the proposed subdivision. The fee charged shall be in addition to the filing and recording fee, and shall be for the examination and inspection of plats and the land proposed to be subdivided, and related expenses.

(2) A proprietor submitting a plat for approval shall be required to deposit the established fee with the clerk of the municipality and until the fee is paid, the plat shall not be considered or reviewed.

(3) The governing body may employ a surveyor as an assistant. If it is deemed more practical in a county for the county to employ a surveyor to assist governing bodies of municipalities within the county, then the board of supervisors, by resolution, may employ the surveyor and may establish a reasonable schedule of fees for his services to be charged to the governing body receiving his assistance.

(4) Until an ordinance is adopted by the governing body establishing a schedule of fees, the governing body may require the payment of a fee not to exceed \$100.00.

Sec. 247. (1) Each member of the county plat board shall be paid compensation and mileage for attendance at plat board meetings equal to compensation and mileage paid to supervisors for attendance at meetings of the board of supervisors. The compensation shall be payable from the general fund of the county.

shall be payable from the general fund of the county.

(2) The duties of the county plat board shall not be considered as being a part of the duties of the regular offices of the members thereof.

Sec. 251. A certified copy of the recorded plat in the register of deeds office shall be received in all courts in this state as prima facie evidence of the making and recording of the plat in conformity with the provisions of this act.

Sec. 252. The register of deeds shall not accept for record any instrument purporting to convey or encumber lots designated by number in a subdivision of land unless a plat

showing such lots has previously been recorded.

Sec. 253. (1) When a plat is certified, signed, acknowledged and recorded as prescribed in this act, every dedication, gift or grant to the public or any person, society corporation marked or noted as such on the plat shall be deemed sufficient converance to vest the fee simple of all parcels of land so marked and noted, and shall be considered a general warranty against the donors, their heirs and assigns to the doness for their use for the purposes therein expressed and no other.

(2) The land intended for the streets, alleys, commons, parks or other public uses as designated on the plat shall be held by the municipality in which the plat is situated in trust

to and for such uses and purposes.

(3) A reservation or an ownership interest in mineral rights or underground gas storage rights in land shall not constitute the holding of title for the purpose of signing the

proprietor's certificate.

Sec. 254. Any restriction required to be placed on platted land by a public body given the authority to review or approve plats by the provisions of this act or which names the public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction in a court of competent jurisdiction against anyone who has or acquires an interest in the land subject to the restriction. The restriction may be released or waived in writing but only by the public body having the right of enforcement.

Sec. 255. When a subdivision plat has been recorded, the lots in that plat shall be described by the caption of the plat and the lot number for all purposes, including those of

assessment, taxation, sale and conveyance.

Sec. 256. When the governing body of a municipality by resolution or ordinance takes any of the following actions, the clerk of the municipality within 30 days shall record a certified copy with the register of deeds, giving the name of the plat or plats affected, and shall also send a copy to the state treasurer, and until recorded the ordinance or resolution shall have no force or effect:

(a) Opens or vacates a street or alley, or any portion of same.

(b) Extends, widens or changes the name of an existing street or alley.

Sec. 257. (1) When the governing body of a municipality determines that it is necessary for the health, welfare, comfort and safety of the people of the municipality to discontinue an existing street, alley or other public lands shown on a plat, by resolution or ordinance, it may reserve an easement therein for public utility purposes and other public purposes within the right of way of any street, alley or other public lands vacated.

(2) The resolution or ordinance shall be recorded within 30 days with the register

of deeds and a copy shall be sent to the state treasurer.

Sec. 258. As a condition of final plat approval the governing body of a municipality or the board of county road commissioners may require copies of agreements, covenants or other documents showing the manner in which areas to be reserved for the common use of the residents of the subdivision are to be maintained.

Sec. 259. The standards for approval of plats prescribed in this act are minimum standards and any municipality, by ordinance, may impose stricter requirements and

may reject any plat which does not conform to such requirements.

Sec. 261. No person shall sell any lot in a recorded plat or any parcel of unplatted land in an unincorporated area if it abuts a street or road which has not been accepted as public unless the seller first informs the purchaser in writing on a separate instrument to be attached to the instrument conveying any interest in such lot or parcel of land of the fact that the street or road is private and is not required to be maintained by the board of county road commissioners. In addition, any contract or agreement of sale entered into in violation of this section shall be voidable at the option of the purchaser.

Sec. 262. No person shall knowingly remove or disturb any monument without the permission of the governing body of the municipality in which the subdivision is located.

Sec. 263. No lot, outlot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with the ordinances of the municipality. The municipality may permit the partitioning or dividing of lots, outlots or other parcels of

land into not more than 4 parts; however, any lot, outlot or other parcel of land not served by public sewer and public water systems shall not be further partitioned or divided if the resulting lots, outlots or other parcels are less than the minimum width and area provided for in this act.

Sec. 264. Any person, firm or corporation who shall hereafter sell or agree to sell, any lot, piece or parcel of land without first having recorded a plat thereof when required by the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00, or imprisonment in the county jail not to exceed 180 days, or both, for the first offense and for each subsequent offense a like fine or imprisonment in the county jail not to exceed 1 year, or both: Provided, however, That agreement to sell does not include an option to buy extended from the seller for a money consideration to the prospective buyer. Any person who violates any other provision of this act is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

Sec. 265. Any municipality, board of county road commissioners or county plat board may bring an action in its own name to restrain or prevent any violation of this act or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

Sec. 266. The attorney general or the prosecuting attorney of any county may prosecute any violation of this act or may bring an action in the name of the state to restrain or prevent any violation of this act or any continuance of any such violation. Such action, in the case of the attorney general, shall be brought in the circuit court of Ingham county, upon which jurisdiction thereof is conferred, and in the case of the prosecuting attorney, in the county where the land involved is located, the defendant resides, or has his principal place of business or where the purchaser resides.

Sec. 267. Any sale of lands subdivided in violation of the provisions of this act shall be voidable at the option of the purchaser thereof, and shall subject the seller thereof to the forfeiture of any and all consideration received or pledged therefor, together with any damages sustained by said purchaser thereof, recoverable in an action at law.

Sec. 290. The employee in direct charge of the plat section in the office of the state treasurer which performs services for the state treasurer under this act, and such employee's chief assistant, shall be a registered land surveyor registered in this state.

Sec. 291. Any preliminary or final plat which on January 1, 1968, has been approved by the municipality or county road commission may be processed under the law in effect at the time of approval.

Sec. 292. Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, is repealed.

Sec. 293. This act shall take effect on January 1, 1968.

		Secretary of the S	enate
		Clerk of the House of Represent	ntives
pproved			
	Gov	vernor.	

STATE OF MICHIGAN

LAWS RELATING TO

WATER



enacted by

74th LEGISLATURE REGULAR SESSION OF 1968

PREPARED BY
WATER RESOURCES COMMISSION
DEPARTMENT OF CONSERVATION

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PUBLIC ACTS PASSED BY 74TH LEGISLATURE - 1968 - REGULAR SESSION

DEPARTMENT OF CONSERVATION

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Act 247, Public Acts of 1955, as amended by Act 94, Public Acts of 1958, effective July 1, 1958, and Act 293, Public Acts of 1965, effective July 22, 1965, and Act 3, PUblic Acts of 1968, effective February 27, 1968, and Act 57, Public Acts of 1968, effective May 28, 1968.

INLAND LAKES AND STREAMS

Act 7 of 1968. RIPORIAN RIGHTS - PUBLIC TRUST - NAVIGABLE INLAND LAKES PP.10 Regulate the use of inland lakes and streams, and construction or dredging of same.

Amends Act 291 of the P.A. of 1965, being Sections 281.731 to 281.747 of C.L. of 1948 by adding five new sections to stand as Sections 18 through 22.

WATER POLLUTION CONTROL FUNDS

Act 75 of 1968. FUNDS, ESTABLISHMENT, APPROPRIATIONS, PRIORITIES, ETC. PP.12 Establishes the state water pollution control fund to be used by local agencies for their construction or reconstruction of sewage treatment facilities. All projects must be certified by the water resources commission before grants are made.

Amends Sections 1, 2, 3, and 4 of Act 329 of the P.A. of 1966, being Sections 323.111, 323.112, 323.113, and 323.114 of the G.L. of 1948; and to add seven new sections to stand as Sections 5 through 11.

WATER POLLUTION CONTROL

Act 76 of 1968. FINANCING WATER POLLUTION CONTROL

Authorizes the issuance of obligation bonds to raise \$335,000,000.00 will be used for the planning, acquisition, and the construction of facilities for the prevention and abatement of water pollution. (NEW)

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Act 167 of 1968. FLOOD PLAINS

PP.20

Authorizes the water resources commission to make regulations regarding the occupation of flood plains.

Amends Tital and Sections 2a, 3 and 4 of Act 245 of the P.A. of 1929, Section 2a as added by Act 117 of the P.A. of 1949 and Section 3 as amended by Act 405 of the P.A. of 1965, being Section 323.2a, 323.3 and 323.4 of the C.L. of 1948, are amended and two new sections to stand as Sections 5a and 5b are added.

Act 209 of 1968. WASTE TREATMENT FACILITIES.

PP.22

Establishes the deadline date afterwhich every industrial or commercial entity which discharges liquid wastes into any public lake, or stream shall have waste treatment facilities under the supervision of persons who have been certified by the water resources commission as properly qualified to operate the facilities.

Amends Act 245 of the P.A. of 1929 a amended being Sections 323.1 to 323.12a of the C.L. of 1948, by adding a new Section 6a.

OIL, GAS AND MINERALS

Act 314 of 1968. PROPERTY ACQUISITION IN CONNECTION WITH LOW GRADE IRON MINING OPERATIONS PP.24

An act to assist and encourage the acquisition of surface land areas and rights required for water quality control and other purposes in connection with mining and beneficating low grade iron ore and the beneficating and agglomevating of underground iron ore; and provide adequate compensation therefor. (NEW)

THE GREAT LAKES SUBMERGED LANDS ACT

Act 247, Public Acts of 1955, as amended by Act 94, Public Acts of 1958, effective July 1, 1958, and Act 293, Public Acts of 1965, effective July 22, 1965, and Act 3, Public Acts of 1968, effective February 27, 1968, and Act 57, Public Acts of 1968, effective May 28, 1968.

TITLE

An act to authorize the department of conservation of the state of Michigan to grant, convey or lease certain unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors thereof, belonging to the state of Michigan or held in trust by it; to permit the private and public use of waters over submerged patented lands and the making of agreements limiting and regulating the use therof; to provide for the disposition of revenue derived therefrom; and to provide penalties for violation of this act.

- Sec. 1. This act shall be known as the "Great Lakes Submerged Lands Act."
- Sec. 2. The lands covered and affected by this act are all of the unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors thereof, belonging to the state or held in trust by it, including those lands which have heretofore been artifically filled in. The waters covered and affected by this act are all of the waters of the Great Lakes within the boundaries of the state. This act shall be construed so as to preserve and protect the interests of the general public in the aforesaid lands and waters and to provide for the sale, lease, exchange or other disposition of unpatented lands and the private or public use of waters over patented and unpatented lands and to permit the filling in of patented submerged lands whenever it is determined by the department of conservation that the private or public use of such lands and waters will not substantially affect the public use thereof for hunting, fishing, swimming, pleasure boating or navigation or that the public trust in the state will not be impaired by such agreements for use, sales, lease or other disposition. The word "land" or "lands" whenever used in this act shall refer to the aforesaid described unpatented lake bottomlands and unpatented made lands and patented lands in the Great Lakes and the bays and harbors thereof LYING BELOW AND LAKEWARD OF THE NATURAL ORDINARY HIGH-WATER MARK, but the act shall not be construed as affecting property rights secured by virtue of a swamp land grant. FOR PURPOSES OF THIS ACT THE ORDINARY HIGH-WATER MARK SHALL BE DEEMED TO BE AT THE FOLLOWING ELEVATIONS ABOVE SEA LEVEL, INTERNATIONAL GREAT LAKES DATUM OF 1955: LAKE SUPERIOR, 601.5 FEET; LAKES MICHIGAN AND HURON, 579.8 FEET; LAKE ST. CLAIR, 574.7 FEET; AND LAKE ERIE, 571.6 FEET.
- Sec. 3. (1) The department of conservation, hereinafter referred to as the "department", after finding that the public trust in the waters will not be impaired or substantially affected, is hereby authorized to enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands, after approval of the state administrative board. Quitclaim deeds, leases or agreements may be issued or entered into by the department with any person, firm, or corporation, public or private, or the United States of America covering unpatented lands, and shall contain such terms and conditions and requirements which shall be deemed just and equitable and in conformity with the public trust as determined by the department. The department shall reserve to the state of Michigan all mineral rights, including but not limited to coal, oil, gas, sand, gravel, stone and other materials or products located or found in said lands, except where lands are occupied or to be occupied for residential purposes at the time of conveyance.

- (2) After the effective date of this amendatory act of 1965, a riparian owner shall obtain a permit from the department, for which no charge shall be made, before dredging or placing spoil or other materials on bottomland.
- Sec. 4. (a) Application for a deed or lease to unpatented lands or agreement for use of water areas over patented lands shall be on forms provided by the department. Such application shall include a surveyed description of the lands or water area applied for, together with a surveyed description of the riparian or littoral property lying adjacent and contiguous to the lands or water area, certified to by a registered land surveyor. The description shall show the location of the water's edge at the time it was prepared and such other information that shall be required by the department. The applicant shall be a riparian or littoral owner or owners of property touching or situated opposite the unpatented land or water area over patented lands applied for or an occupant of said land. The application shall include the names and mailing addresses of all persons in possession or occupancy or having any interest in the adjacent or contiguous riparian or littoral property or having riparian or littoral rights or interests in the lands or water areas applied for and such application shall be accompanied by the written consent of all persons having an interest in the lands or water areas applied for in the application.
- (b) Before an application can be acted upon by the department, the applicant shall secure approval of or permission for his proposed use of such lands or water area from any federal agency as provided by law, the Michigan waterways commission and the legislative body of the local unit or units of government within which such land or water area is or will be included, or to which it is contiguous or adjacent. No deed, lease or agreement shall be issued or entered into by the department without such approvals or permission. The department may also require the applicant to furnish an abstract of title and ownership, and a 20-year tax history on the riparian or littoral property which is contiguous or adjacent to the lands or water area applied for, as well as on the lands applied for, if available.
- (c) The department shall require the applicant to deposit a fee of not less than \$50.00 for each application filed, which fee shall be deposited with the state treasurer to the credit of the state's general fund. Should a deed, lease or other agreement be approved by the department, the applicant shall be entitled to credit for the fee against the consideration which shall be paid for such deed, lease or other agreement.
- Sec. 5. Should the department determine that it is in the public interest to grant an applicant a deed or lease to such lands or enter into an agreement to permit use and improvements in the waters or to enter into any other agreement in regard thereto, the department shall determine the amount of consideration to be paid to the state by such applicant for the conveyance or lease of unpatented lands.
- The department may permit, by lease or agreement, the filling in of patented submerged lands and permit permanent improvements and structures finding that the public trust will not be impaired or substantially injured.

 The department may issue deeds or may enter into leases if the unpatented lands have been artificially filled in or are proposed to be changed from

the condition that exists on the effective date of this act by filling, sheet piling, shoring, or by any other means, and such lands are used or to be used or occupied in whole or in part for uses other than existing, lawful riparian or littoral purposes. The consideration to be paid to the state for the conveyance or lease of unputented lands by such applicant shall be not less than the fair, cash market value of the lands determined as of the date of the filing of such application, minus any improvements placed thereon but in no case shall the sale price be less than 30% of the value of the land. In determining the fair, cash market value of the lands applied for, the department may give due consideration to the fact that such lands are connected with the riparian or littoral property belonging to the applicant, if such is the case, and to the uses, including residential and commercial, being made or which can be made of said lands.

- (b) Agreements for the lands or water area described in section 2 may be granted to or entered into with local units of government for public purposes and containing such terms and conditions which may be deemed just and equitable in view of the public trust involved and may include the granting of permission to make such fills as may be necessary.
- (c) If the unpatented lands applied for have not been filled in, nor in any way substantially changed from their natural character at the time the application is filed with the department, and the application is filed for the purpose of flood control, shore erosion control, drainage and sanitation control or to straighten irregular shore lines, the consideration to be paid to the state by the applicant shall be the fair, cash value of such land, giving due consideration to its being adjacent to and connected with the riparian or littoral property owned by the applicant.
- (d) Leases or agreements covering unpatented lands may be granted or entered into with riparian or littoral proprietors for commercial marina purposes or for marinas operated by persons, corporation, clubs or associations for such consideration and containing such terms and conditions which are deemed by the conservation department to be just and equitable. Such leases may include either filled or unfilled lake bottomlands, or both. Rental shall commence as of the date of use of such unpatented lands for the marina operations. Dockage and other uses by marinas in waters over patented lands on the effective date of this act shall be deemed to be lawful riparian use.

The term "marina purposes" as used in this act shall be construed as an operation making use of Great Lakes submerged bottomlands or filled in bottomlands for the purpose of service to boat owners or operators which may restrict or prevent the free public use of the affected bottomlands or filled in lands.

(e) If the department after investigation determines that an applicant has willfully and knowingly filled in or in any way substantially changed the lands applied for with an intent to defraud, or if the applicant has acquired such lands with knowledge of such fraudulent intent and is not an innocent purchaser, the sale price shall be the fair cash market value of the land. An applicant may request a hearing of any determination made hereunder. The department shall grant a hearing if requested.

- Sec. 6. The fair, cash market value of lands approved for sale under the provisions of this act shall be determined by the department. In no instance shall the consideration paid to the state be less than \$50.00. If the applicant is not satisfied with the value determined by the department, within 30 days after the receipt of such determination, he may submit a petition in writing to the circuit court of the county in which such lands are located and the court shall appoint an appriaser or appraisers as the court shall determine for an appraisal of said lands. Decision of the court shall be final.
- Sec. 7. All moneys received by the department from the sale, leasing or other disposition of lands and water areas under this act shall be paid to the state treasurer and be credited to the state's general fund. The department shall comply with the accounting laws of this state and the requirements with respect to submission of budgets. The department is hereby authorized to hire such employees, assistants and services that may be necessary within the appropriation made therefor by the legislature and to delegate such authority as may be necessary to carry out the terms of this act.
- Sec. 8. All lands conveyed or leased under this act shall be subject to taxation and the general property tax laws and other laws as other real estate used and taxed by the governmental unit or units within which the land is or may be included.
- Sec. 9. The department is hereby authorized and empowered to promulgate and adopt such rules and regulations, in accordance with the requirements of law, consistent with this act, that may be necessary to carry out its provisions. Such rules and regulations shall be adopted and promulgated in accordance with Act No. 88 of the P.A. of 1943, as amended, being Sections 24.71 to 24.82, inclusive, of the C.L. of 1948, and Act No. 197, of the P.A. of 1952, as amended, being Sections 24.101 to 24.110, inclusive, of the C.L. of 1948.
- Sec. Any person who excavates or fills, or in any manner alters or modifies any of the land or waters subject to the provisions of this act without the approval of the department shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$1,000.00 or imprisoned not more than 1 year, or both such fine and imprisonment. Lands, the use of which are so changed, shall not be sold to any person convicted under this section at less than fair, cash market value.
- Sec. 11. A riparian owner may apply to the department for a certificate suitable for recording indicating the location of his lakeward boundary or indicating that the land involved has accreted to his property as a result of natural accretions or placement of a lawful permanent structure. The application shall be accompanied by a fee of \$200.00 and proof of upland ownership.
- Sec. 12. Unless a permit has been granted by the department or authorization has been granted by the legislature, or except as to boat wells and slips facilitating private, noncommercial, recreational boat use, not exceeding 50 feet in length where the spoil is not disposed of below the ordinary high-water mark of the body of water to which it is connected, it is unlawful:

- (a) To construct, dredge, commence or do any work with respect to an artificial canal, channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate connection thereof with any of the Great Lakes, including Lake St. Clair.
- (b) To connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway with any of the Great Lakes, including Lake St. Clair, for navigation or any other purpose.
- Sec. 13. (1) Before any work or connection specified in section 12 is undertaken a person shall file an application with the department setting forth the following:
 - (a) The name and address of the applicant.
 - (b) The legal description of the lands included in the project.
 - (c) A summary statement of the purpose of the project.
- (d) A map or diagram showing the proposal on an adequate scale with contours and cross-section profiles of the waterway to be constructed.
 - (e) Other information required by the department.
- (2) A fee of not less than \$50.00 shall accompany the application which fee shall be transmitted to the state treasurer for credit to the state's general fund.
- Sec. 14. Upon receipt of the application, the department shall mail copies to the state department of public health, clerks of the county, city, village and township, and drain commissioner of the county of if none the road commissioner of the county, in which the project or body of water affected is located, and to the adjacent riparian owners, accompanied by a statement that unless a written objection is filed with the department within 20 days after the mailing of the copies, the department may take action to grant the application. The department may set the application for public hearing. At least 10 days' notice of the hearing shall be given by publication in a newspaper circulated in the county and by mailing copies of the notice to the persons named in this section.
- Sec. 15. If the department finds that the project will not injure the public trust or interest including fish and game habitat, that the project conforms to the requirements of law for sanitation, and that no material injury to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing enlargement of the waterway affected. The permit shall provide that the artificial waterway shall be a public waterway, except intake or discharge canals or channels on property owned, controlled, and used by a public utility. The department may impose further conditions in the permit that it finds reasonably necessary to protect the public health, safety, welfare, trust and interest, and private rights and property. The existing and future owners of land fronting on the artificial waterway are liable for maintenance of the waterway in accordance with the conditions of the permit.

[No. 7.]

AN ACT to amend Act No. 291 of the Public Acts of 1965, entitled "An act to protect riparian rights and the public trust in navigable inland lakes and streams, including the St. Mary's, St. Clair and Detroit rivers, and to regulate the uses thereof; to provide for coordination between units and agencies of government; to prescribe the powers and duties of the department of conservation, other state agencies, and local units of government; and to provide remedies and penalties for violation of this act," being sections 281.731 to 281.747 of the Compiled Laws of 1948, by adding 5 new sections to stand as sections 18 to 22.

The People of the State of Michigan enact:

Sections added.

Section 1. Act No. 291 of the Public Acts of 1965, being sections 281.731 to 281.747 of the Compiled Laws of 1948, is amended by adding 5 new sections to stand as sections to 22 to read as follows:

281.748 Inland lakes and streams; unlawful construction or dredging; exceptions. [M.S.A. 11.468]

Sec. 18. (1) Unless a permit has been granted by the department or authorization has been granted by the legislature, it is unlawful:

(a) To construct, dredge, commence, extend or enlarge an artificial canal, channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate connection with an existing navigable stream, lake or other body of navigable water, or where any part of such artificial waterway is located within 500 feet of the ordinary high water mark of an existing navigable stream, lake or other body of navigable water.

(b) To connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway with an existing body of navigable water, for

navigation or any other purpose.

(2) This section does not apply to construction and repair of public highways, to boat wells and slips facilitating private, noncommercial, recreational boat use, not exceeding 50 feet in length if the spoil is not disposed of below the ordinary high-water mark of the body of water to which they are connected, to agricultural uses of land, nor to drains subject to Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948.

281.749 Application for permit; contents, fee. [M.S.A. 11 469]

Sec. 19. (1) Before any work or connection specified in section 18 is undertaken a person shall file an application with the department setting torth the following:

(a) The name and address of the applicant.

- (b) The legal description of the lands included in the project
- (c) A summary statement of the purpose of the project.

(d) A map or diagram showing the proposal on an adequate scale with contours and

cross-section profiles of the waterway to be constructed.

(e) The name and address of the secretary of any property owners' association, as recorded with the county clerk of said county, and pertaining to the body of water affected by the project or if there is no such association, the names and addresses of at least 5 persons who own real property located adjacent to the body of water. If fewer than 5 persons own real property located adjacent to the body of water, the names and addresses of the persons that own real estate so located shall be given.

(f) Such other information that may be required by the department

(2) A fee of not less than \$50.00 shall accompany the application except where the purpose of the application is to maintain any existing water structure described in section 18. The tee shall be transmitted to the state treasurer for credit to the state's general fund.

281.750 Application copies to local units and adjacent riparian owners; objections; hearing, time, notice. [M.S.A. 11.470]

Sec. 20. Upon receipt of the application, the department shall mail copies to the state department of public health, clerks of the county, city, village and township, and drain commissioner of the county, or if none the road commissioner of the county in which the project or body of water affected is located, and to the other persons named in subdivision (e) of section 19, accompanied by a statement that unless a written request is filed with the department within 20 days after the mailing of the copies, the department may take action to grant the application without a public hearing. If a timely request is filed, or the department so elects, it shall set the application for public hearing. At least 10 days' notice of the hearing shall be given by publication in a newspaper circulated in the county and by mailing copies of the notice to the persons named in this section.

281.751 Permit; issuance; conditions; maintenance of waterway. [M.S.A. 11.471]

Sec. 21. If the department finds that the project will not injure the public trust or interest, including fish and game habitat, that the project conforms to the requirements of laws for sanitation, and that no material injury to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing the enlargement of the waterway affected. The department may impose such further conditions in the permit that it finds reasonably necessary to protect public health, safety, welfare, trust and interest, and to protect private rights and property. The existing and future owners of land fronting on the artificial waterway are liable for maintenance of the waterway in accordance with the conditions of the permit.

281.752 Inapplicability to privately owned nonnavigable inland lakes. [M.S.A. 11.472]

Sec. 22. This act does not apply to privately owned nonnavigable inland lakes.

This act is ordered to take immediate effect. Approved March 20, 1968.

Act No. 75 Public Acts of 1968 Approved by Governor June 4, 1968

STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1968

Introduced by Reps. Smit, Petitpren, Schmidt, Brown, James F. Smith and Thomas J. Anderson

Reps. Copeland, Roy Smith, Kramer, Snyder, Stites and Fitzgerald named as co-sponsors

ENROLLED HOUSE BILL No. 2646

AN ACT to amend sections 1, 2, 3 and 4 of Act No. 329 of the Public Acts of 1966, entitled "An act to provide state grants for sewage treatment facilities," being sections 323.111, 323.112, 323.113 and 323.114 of the Compiled Laws of 1948; and to add 7 new sections to stand as sections 5 to 11.

The People of the State of Michigan enact:

Section 1. Sections 1, 2, 3 and 4 of Act No. 329 of the Public Acts of 1966, being sections 323.111, 323.112, 323.113 and 323.114 of the Compiled Laws of 1948, are amended and 7 new sections to stand as sections 5 to 11 are added, the amended and added sections to read as follows:

Sec. 1. A fund to be known as the state water pollution control fund is established to be used for state grants to counties, cities, villages, townships or other public bodies created by or pursuant to state law and having jurisdiction over disposal of sewage or other wastes, hereinafter referred to as local agencies, for their construction or reconstruction of sewage treatment facilities.

Sec. 2. Moneys appropriated to the fund shall be deposited with the state treasurer and paid out by him to local agencies in accordance with accounting laws of the state for eligible projects upon certification by the water resources commission. The commission shall certify eligible projects to the state treasurer for payment of grants or increments thereof when federal grant payments are made for such projects. The unexpended and unencumbered balances of state appropriated funds in the water pollution control fund shall revert to the general fund at the end of each fiscal year.

Sec. 3. Grants shall be made under this act only for projects eligible for federal grants under United States Public Law 84-660, as amended, and shall be made in an amount equal to 25% of that portion of the project cost that is eligible for a federal grant.

Grants shall not be made under this act for projects which prior to July 1, 1968 have been certified by the water resources commission for federal grants under such public law except that projects which after July 1, 1967 have been certified by the water resources commission for federal grants shall be eligible for such grants from funds which may become available from a state bond issue for such purposes.

Sec. 4. The water resources commission shall promulgate rules and regulations to carry out the functions of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

Sec. 5. Eligible projects shall be funded in the descending order of their priority as established by the water resources commission until the state water pollution control fund is exhausted. No local agency shall be allotted more than 25% of the state funds available. If funds available for the last project so funded are less than the amount of the grant to which the project is entitled, the balance due on such grant shall be paid from receipts of the fund in the next succeeding fiscal year, before any other projects are so funded.

Sec. 6. Funds received by the state under the reimbursement provisions of section 8c of United States Public Law 84-660, as amended by United States Public Law 87-88, United States Public Law 89-234 and by United States Public Law 89-753, shall be allocated to the state water pollution control fund for state grants for sewage treatment facilities under the provisions of this act.

Sec. 7. Effective July 1, 1968, a grant shall not be made until the local agency's governing body has adopted and submitted to the water resources commission a comprehensive long-range plan for the control of pollution in the area within its jurisdiction, hereinafter referred to as the official plan. If more than 1 local agency has authority to provide service for sewage collection in the same area, the required plan may be submitted jointly by the local agencies concerned or by 1 local agency with the concurrence of the others.

Sec. 8. An official plan shall:

(a) Provide for timely construction of sewage treatment facilities which will prevent the discharge of untreated or inadequately treated sewage or other wastes as defined by Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of

the Compiled Laws of 1948, into the waters of the state.

(b) Provide for adequate planning, zoning, population projections and engineering and economic studies to delineate with all practicable precision those portions of the area which public sewerage systems may reasonably be expected to serve within 10 years, and within 20 years, and any areas in which the provision of such services is not reasonably foreseeable.

(c) Be in compliance with the state pollution control plan required by United States Public Law 84-660, as amended.

(d) Set forth a time schedule and proposed method of financing, construction and

operation of the pollution control system.

(e) Be reviewed by the official planning agencies having jurisdiction within the local agency, including the regional planning agency, if any, for consistency with programs of planning for the area, which reviews shall be transmitted to the water resources commission with the plan.

Sec. 9. The water resources commission may administer grants to local agencies to assist them in preparing official plans. Such grants shall be made from specific appropriations made by the legislature and from federal appropriations authorized by United States Public Law 89-753, and shall equal 1/2 the cost of the preparation of such plans.

Sec. 10. (1) The water resources commission may approve the official plan as submitted or, if it finds the plan to be inconsistent with proper local or regional water pollution control, it may return the plan for appropriate modification. Where more than 1 local agency is involved in an official plan and the local agencies are unable to agree upon an official plan which the commission will approve, the commission shall develop the necessary official plan.

(2) The commission may provide technical assistance to local agencies in coordinating official plans.

(3) The commission shall cooperate with all appropriate federal, state, interstate and local agencies and with appropriate private organizations.

(4) The commission shall submit to the appropriations committees of the house and

senate a detailed priority list of projects to be submitted to the federal agency for approval. The list shall be submitted at least 30 days before submission to federal agencies.

Sec. 11. (1) The water resources commission, with consent of the head of any other agency of this state, shall utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this act.

(2) A recipient of assistance under this act shall keep such records as the commission shall prescribe, including records which fully disclose the amount and disposition by the recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The commission and the auditor general or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the recipient that are pertinent to grants received under this act.

Section 2. This amendatory act shall take effect July 1, 1968.

This act is ordered to take immediate effect.

		Clerk of the	House of Representative
	,	····	Secretary of the Sena
proved	 		
	 Governor		

STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1968

Introduced by Reps. Smit, James F. Smith, Ziegler, Baker, Stacey, Kok, Woodman, Warner, Cawthorne, Robert W. Davis, Rush, Grant, Jawett, Tierney, Loren D. Anderson, Bishop, Hampton, Heinze, Kolderman, Stites, Pittenger, Schmidt and Kehres

Reps. Thomas J. Anderson, Copeland, Snyder, Bennett, Kildee, Mahalak, Swallow, Kramer, Serotkin, Varnum, Roy Smith, Jacobetti, George F. Montgomery and George Montgomery named as co-sponsors

ENROLLED HOUSE BILL No. 3852

AN ACT to authorize the issuance of general obligation bonds of the state of Michigan and to pledge the full faith and credit of the state of Michigan for the payment of principal and interest thereon for the planning, acquisition and the construction of facilities for the prevention and abatement of water pollution and for the making of grants, loans and advances to municipalities of the state for such purposes; to provide for other matters relating to said bonds and the use of the proceeds of sale of said bonds; and to provide for the submission of the question of the issuance of said bonds to the electors of the state of Michigan.

The People of the State of Michigan enact:

Sec. 1. The terms "municipality" or "municipalities" as herein used shall be construed to mean and include any county, city, village, township, school district, metropolitan district, port district, drainage district, authority or other governmental authority, agency or department within or of the state with power to acquire, construct, improve or operate facilities for the prevention or abatement of water pollution or any combination thereof.

Sec. 2. The legislature hereby determines that it is essential for the public health, safety and welfare of the state and the residents thereof to undertake a complete program of construction of facilities to abate and prevent pollution of the water in and adjoining the state, the program to be undertaken by the state in cooperation with any municipalities, with such aid from the United States government or its agencies as is available.

Sec. 3. The state shall borrow the sum of \$335,000,000,000 and issue the general obligation bonds of the state, pledging the faith and credit of the state for the payment of the principal and interest thereon for the purpose of providing money for the planning, acquisition and construction of facilities for the prevention and abatement of water pollution, consisting of trunk and interceptor sewers, sewage treatment plants and facilities, improvements and additions to existing sewage treatment plants and facilities and such other structures, devices or facilities as will prevent or abate water pollution, and for the making of grants, loans and advances to municipalities, in accordance with conditions,

methods and procedures therefor to be established by law.

Sec. 4. The bonds shall be issued in 1 or more series, each series be in such principal amount, to be dated, to have such maturities which may be eiter serial, term or term and serial, to bear interest at such rate or rates not exceeding 6% per annum, to be subject or not subject to prior redemption and if subject to prior redemption with such call premiums, to be payable at such place or places, to have or have not such provisions for registration as to principal only or as to both principal and interest, to be in such form and to be executed in such manner as shall be determined by resolution to be adopted by the administrative board. The administrative board may in the resolution provide for the investment and reinvestment of bond sales proceeds, and such other details for said bonds and the security thereof as may be deemed to be necessary and advisable. The bonds or any series thereof shall be sold for not less than the par value thereof and shall be sold at public sale after publication of a notice of sale thereof in a newspaper circulating in the state, which carries as part of its regular service notices of sale of municipal bonds, at least 7 days before the date fixed for sale of said bonds or series thereof. The bonds prior to their issuance shall be approved by the municipal finance commission, but shall not otherwise be subject to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

Sec. 5. The proceeds of sale of the bonds or any series thereof and any premium and accrued interest received on the delivery thereof shall be deposited in the treasury in a separate account and shall be disbursed from the separate account only for the purposes for which the bonds have been authorized and the expense of issuing said bonds. Proceeds of sale of said bonds or any series thereof shall be expended for the purposes set forth

in this act in such manner as shall be provided by law.

Sec. 6. Bonds issued under this act shall be fully negotiable under the provisions of Act No. 174 of the Public Acts of 1962, as amended, being sections 440.1101 to 440.9994 of the Compiled Laws of 1948, and the bonds and the interest thereon shall be exempt

from all taxation by the state or any of its political subdivisions.

Sec. 7. Bonds issued under the provisions of this act are hereby made securities in which all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all administrators, executors, guardians, trustees and other fiduciaries may properly and legally invest any funds, including capital, belonging to them or within their control.

Sec. 8. The question of borrowing the sum of \$335,000,000.00 and issuing bonds of the state for the purpose set forth in this act shall be submitted to vote of the electors of the state qualified to vote thereon in accordance with the provisions of article 9, section 15 of the Michigan constitution of 1963, at the general November election to be held on November 5, 1968. The question submitted shall be substantially as follows:

"Shall the state of Michigan borrow the sum of \$335,000,000.00 and issue general obligation bonds of the state therefor pledging the full faith and credit of the state for the payment of principal and interest thereon for the purpose of planning, acquiring and constructing facilities for the prevention and abatement of water pollution and for the making of grants, loans and advances to municipalities, political subdivisions and agencies of the state for such purposes, the method of repayment of said bonds to be from the general fund of the state?

Yes 🗌

Sec. 9. The secretary of state shall take such steps and perform all acts as are necessary to properly submit said question to the electors of the state qualified to vote thereon at the general November election to be held on November 5, 1968.

Sec. 10. After the issuance of the bonds authorized by this act or any series thereof it shall be the duty of the legislature and the legislature hereby covenants that it will each year make appropriations fully sufficient to pay promptly when due the principal of and interest on all outstanding bonds authorized by this act and all costs incidental to the payment thereof.

Sec. 11. No bonds shall be issued under this act unless the question set forth in section 8 of this act is approved by a majority vote of the qualified electors voting thereon at the general November election to be held on November 5, 1968.

Sec. 12. This act shall be finally effective at such time as the question set forth in section 8 is approved by a majority vote of the qualified electors of the state as required by article 9, section 15 of the Michigan constitution of 1963.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.
Secretary of the Senate.
Governor.

Senate Bill No. 960

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. The title and sections 2a, 3 and 4 of Act No. 245 of the Public Acts of 1929, section 2a as added by Act No. 117 of the Public Acts of 1949 and section 3 as amended by Act No. 405 of the Public Acts of 1965, being sections 323.2a, 323.3 and 323.4 of the Compiled Laws of 1948, are amended and 2 new sections to stand as sections 5a and 5b are added, the amended title and amended and added sections to read as follows:

TITLE

An act to create a water resources commission to protect and conserve the water resources of the state, to have control over the pollution of any waters of the state and the Great Lakes, to have control over the alteration of the watercourses and the flood plains of all rivers and streams, with powers to make rules and regulations governing the same, and to prescribe the powers and duties of such commission: to prohibit the pollution of any waters of the state and the Great Lakes, and to prohibit the obstruction of the floodways of the rivers and streams of the state: to designate the commission as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties for the violation of this act.

Sec. 2a. The water resources commission is designated the state agency to cooperate and negotiate with other governments, governmental units and agencies thereof in matters concerning the water resources of the state, including but not limited to flood control and beach erosion control. The commission shall have control over the alterations of natural or present watercourses of all rivers and streams in the state to assure that the channels and the portions of the flood plains that are the floodways are not inhabited and are kept free and clear of interference or obstruction which will cause any undue restriction of the capacity of the floodway. The commission is further authorized to take such steps as may be necessary to take advantage of any act of congress heretofore or hereafter enacted which may be of assistance in carrying out the purposes of this act.

The commission shall report to the governor and to the legislature at least once in each year any plans or projects being carried on or considered and shall include in such report requests for any legislation needed to carry out any proposed projects or agreements made necessary thereby, together with any requests for appropriations.

- Sec. 3. The commission shall be authorized to bring any appropriate action in the name of the people of the state of Michigan, either at law or in chancery as may be necessary to carry out the provisions of this act, and to enforce any and all laws relating to the pollution of the waters and the obstruction of the floodways of the rivers and streams of this state. Whenever the attorney general deems it necessary, he shall take charge of and prosecute all criminal cases arising under the provisions of this act.
- Sec. 4. The commission or any agent duly appointed by it shall have the right to enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions relating to the pollution of any waters and the obstruction of the floodways of the rivers and streams of this state. The commission

shall have the right to call upon any officer, board, department, school, university, or other state institution and the officers or employees thereof for any assistance deemed necessary to the carrying out of this act.

Sec. 5a. The commission shall have the authority to make regulations and orders for the prevention of harmful interference with the discharge and stage characteristics of streams. It shall have the authority to ascertain and determine for record and in making its order the location and extent of flood plains, stream heds and channels and the discharge and stage characteristics of streams at various times and circumstances

Sec 5b. It shall be unlawful for any person to occupy or permit the occupation. for residential, commercial or industrial purposes of lands or to fill or grade or permit the filling or grading for any purposes other than agricultural of lands in the flood plains, stream bed or channel or any stream, as ascertained and determined for record by the commission, or to undertake or engage in any activity on or with respect to the lands which is determined by the commission to harmfully interfere with the discharge or stage characteristics of a stream, unless the occupation, filling, grading, or other activity shall have been permitted by an order or rule of the commission, or by a valid permit issued therefor by the Department of Conservation under the provisions of law.

Reproduced by W.R.C.

5/27/68

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GRAND RIVER BASIN COORDINATING COMMITTEE DETROIT MI F/G 8/6
GRAND RIVER BASIN MICHIGAN. COMPREHENSIVE WATER RESOURCES STUDY--ETC(U)
MAY 70

UNCLASSIFIED

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END DATE FILMED 10 -77 Act No. 209 Public Acts of 1968 Approved by Governor June 24, 1968

STATE OF MICHIGAN 74TH LEGISLATURE REGULAR SESSION OF 1968

Introduced by Senators Gray and Rockwell

ENROLLED SENATE BILL No. 983

AN ACT to amend Act No. 245 of the Public Acts of 1929, entitled as amended "An act to create a water resources commission to protect and conserve the water resources of the state, to have control over the pollution of any waters of the state and the Great Lakes, with power to make rules and regulations governing the same, and to prescribe the powers and duties of such commission; to prohibit the pollution of any waters of the state and the Great Lakes; to designate the commission as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties for the violation of this act," as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948, by adding a new section 6a.

The People of the State of Michigan enact:

Section 1. Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948, is amended by adding a new section 6a to read as follows:

Sec. 6a. On and after July 1, 1969, or such subsequent date as the commission may designate, every industrial or commercial entity which discharges liquid wastes into any public lake or stream shall have waste treatment facilities under the specific supervision and control of persons who have been certified by the commission as properly qualified to operate the facilities. The commission shall examine all supervisory personnel having supervision and control of the facilities and certify the persons properly qualified to operate or supervise the facilities. Such a certified person shall file monthly, or at such longer intervals as the commission may designate, on forms provided by the commission, reports showing the effectiveness of the treatment facility operation and the quantity and quality of liquid wastes discharged into the public lake or stream. A person who knowingly makes a false statement in such report may have his certificate as an approved treatment facility operator revoked.

This act is ordered to take immediate effect.

Secretary of the Senate.
the House of Representatives.

74TH LEGISLATURE REGULAR SESSION OF 1968

Introduced by Reps. Jacobetti, Gingrass and Varnum

ENROLLED HOUSE BILL No. 3515

AN ACT to assist and encourage the acquisition of surface land areas and rights required for water quality control and other purposes in connection with mining and beneficiating few grade iron ore and the beneficiating and agglomerating of underground iron ore; and to provide adequate compensation therefor.

The People of the State of Michigan exact:

Sec. 1. The business of mining and beneficiating low grade iron ore, as defined in Act No. 77 of the Public Acts of 1951, as amended being sections 211.621 to 211.625 of the Compiled Laws of 1948, and the business of beneficiating and agglomerating of underground iron ore as defined in Act No. 68 of the Fublic Acts of 1963, being sections 207.271 to 207.279 of the Compiled Laws of 1948, are declared to be in the public interest and necessary to the public welfare, and the acquisition of private property for development of an adequate water supply, the necessary storage, processing and treatment of liquid and solid wastes or other non-marketable products resulting from such business is declared to be for a public purpose. The department of conservation is authorized to acquire by condemnation parcels of land that are needed for the establishment of areas, settling ponds and basins for such storage, processing and treatment, together with the necessary appurtenant canals, pipelines, power lines, sluiceways, roadways, dams and dikes, and shall lease, convey or exchange such parcels of land to any person, corporation or association engaged in or proposing to engage in the business of mining and beneficiating low grade iron ore or the beneficiating and agglomerating of underground iron ore or both, upon a showing to the satisfaction of the department that such person, corporation or association has acquired at least 75% of the necessary land and that it has been unable to purchase the remaining necessary parcels at a fair market value, and upon the further showing to the satisfaction of the department that such remaining parcels are necessary for the development and operation of such water supply areas, settling ponds and basins in order to prevent the unlawful pollution of waters of the state or to comply with the requirements of other public agencies of the state. Nothing in this act shall be construed as authorizing the taking of any property owned by a political subdivision of the state or devoted to or used for a public or railroad purpose or of any private property lying within the limits of any incorporated city or village or lands within a recorded plat in an unincorporated village.

Sec. 2. The department shall provide adequate compensation for any owner-occupied residences of owner occupied or operated farmland that it condemns pursuant to this act

to enable the owners of such property to purchase like property suitable to their needs and in standard condition from the proceeds of such compensation, which shall a α minimum be equal to the valuation of such housing or agricultural land as of the date when proceedings for the condemnation thereof were initiated by the department.

Sec. 3. The department shall require as a condition for the issuance of any lease or conveyance authorized by this act the payment by the lessee of the full amount of compensation made or to be made by the department for the lands it has condemned. Such lease shall contain provisions which will protect the ownership of any materials which are deposited upon such lands.

This act is ordered to take immediate effect.

		of the House of Representatives.
		Secretary of the Senate.
Approved		
	Governor.	